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Susan Combs Texas Comptroller of Public Accounts

The Business Tax Advisory
Committee Report to
The 83rd Texas Legislature
January 2013

January 7, 2013

The Honorable Rick Perry
The Honorable David Dewhurst
The Honorable Joseph R. Straus, III
Members of the Texas Legislature

Fellow Texans:

I present herewith the third report of the Business Tax Advisory Committee, as required by Tax Code §171.214(e). As with the previous two reports, this study includes detailed tables that analyze the revised franchise tax by size and type of taxpayers, and also includes tables and analysis that describe how the tax reflects the underlying Texas economy. The report also notes in which respects the tax has functioned as intended.

As presented in previous reports, this study includes a brief look at business taxes in other states and how the state compares to other states in various 50-state rankings of tax and fiscal climate.

The report notes that the tax has rebounded to a degree consistent with gains in economic activity and that the relative shares of tax paid by industry have not changed significantly from previous reports. The tax on margin raised franchise tax revenue for all sizes of taxpayers except for the very smallest, and the tax continues to reflect the economy more closely than it did under the earned surplus calculation.

As provided under the statute, the report does not make recommendations, but does supply sufficient detailed information and specific analysis to allow interested policymakers and taxpayers to draw their own conclusions about what aspects of the tax they would like to review in more detail.

Again, I would like to thank all members of the committee, especially Sen. Tommy Williams, Sen. Kirk Watson, Rep. Warren Chisum and Rep. Myra Crownover, whose participation on the committee was very appreciated. Also, once again the taxpayer and tax practitioner participants in the committee were invaluable and without their expert review, the final report would not be nearly as good or complete as what we are presenting today.

My office will continue to monitor and analyze the franchise tax and report as necessary.

Sincerely,

Susan Combs



Members of the Business Tax Advisory Committee

Susan Combs, Chair	Comptroller of Public Accounts	Austin
Sen. Tommy Williams	Texas Senate	The Woodlands
Sen. Kirk Watson	Texas Senate	Austin
Rep. Warren Chisum	Texas House of Representatives	Pampa
Rep. Myra Crownover	Texas House of Representatives	Denton
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Eric Donaldson	Hot Shot Delivery	Houston
Bill Dvorak	AT&T	Austin
Andy Ellard	Manda Machine Co.	Dallas
David Gilliland	Duggins, Wren, Mann and Romero	Austin
Dan Hagan	American Airlines	Fort Worth
Joe Mack Hilliard	Fencing Incorporated	Corpus Christi
Judy Kilgore	Pilgrim's Pride Corporation	Pittsburg, Texas
Susan Lee	Energy Future Holdings	Dallas
Judy Lindquist	HEB	San Antonio
Emily Parrino	Dell	Round Rock
Doug Rabe	Tenet Healthcare	Dallas
Donna Rutter	Ernst & Young	Fort Worth

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The Business Tax Advisory Committee Report to the 83rd Texas Legislature

Introduction and Statutory Charge

In 2006, a substantial revision of the Texas business franchise tax was passed by the Texas Legislature. The revised tax, based on taxable margin for most taxpayers, was extended to most unincorporated businesses with liability protection actively engaged in business.

The Business Tax Advisory Committee was created by House Bill 3928, 80th Regular Session of the Texas Legislature, to conduct a biennial study of the effects of the revised franchise tax on businesses in this state. The results of each biennial study are to be reported to the governor, lieutenant governor and speaker prior to each regular session of the Legislature through Jan. 31, 2013. This is the third report of the committee. Under the committee charge, found in §171.214 Tax Code, the committee is to evaluate the tax in terms of the following:

1. The relative share of the tax paid by industry and by size of business.
2. How the incidence of the tax compares with the economic makeup of this state's business economy.
3. How the tax compares in structure and in amounts paid to the business taxes imposed by other states.
4. The effect of the tax on the economic climate of this state, including the effect on capital investment and job creation.
5. Any factors that result in the tax not operating as intended.
6. Any other item presented by the Comptroller or by a majority of the committee.

This report of the Business Tax Advisory Committee (BTAC) to the 83rd Texas Legislature, like the prior report, places greater emphasis on determining if the tax is operating as intended — particularly as it relates to the revenue performance and the objectives of the committee.

Like the first two reports, a comparison of the tax on earned surplus (pre-margin tax) to the franchise tax on margin is included as the first section. In this case, the analysis is updated to include margin reports from the 2011 tax year. In short, that analysis is relatively unchanged.

The second section of the report revisits some of the issues relating to taxes in other states and how tax experts view the tax and the state for economic development purposes. In general, the situation has not changed markedly from the first two reports.

The final section of the report concentrates on the performance of the tax and whether the tax is “operating as intended,” as referenced in the statute forming the BTAC. The answer depends on how you analyze the question. If the tax was intended to start closing the loopholes that existed in the pre-margin tax base and to spread the burden of the tax in a manner that more closely mirrors the economy, then there is no question that the tax is operating as intended.

On the other hand, the tax was clearly intended to produce approximately \$6 billion per year, to be divided between general revenue and property tax relief, and to that extent it clearly has not operated as intended. It should be noted, though, that the new law generates substantially more tax revenue — nearly 50 percent more — than the pre-margin tax did in its last year of existence. The report details several factors that could have affected revenue performance relative to the original estimate, including the prevailing difficulties in producing revenue from business taxes, especially in the current economy still recovering from deep recession. The report also discusses other relevant factors such as the larger-than-expected size of cost of goods sold (COGS), and the broader-than-expected applicability of other targeted provisions such as the half-percent rate and the EZ computation.

For several reasons, the report includes total tax for 2011 that is different from any previously reported. The report analyzes return data that totals **\$3.99 billion** in tax reported. This total represents the net tax liability of returns that were processed through mid-year 2012 for the 2011 report year and shouldn't be confused with fiscal-year numbers in other Comptroller reports. Return data for the 2012 report year will be nearly fully processed by early 2013. Updated versions of **Tables 1-5** will be made available to the governor and Legislature during the early months of the 83rd Legislature. It is important to note that for the 2012 report year, the no-tax-due threshold remained at \$1 million.

The total tax revenue of \$3.99 billion included in this report should not be confused with totals reported at the close of fiscal 2011 or any estimate of revenue produced by the Comptroller, whether it was the Comptroller's Biennial Revenue Estimate (BRE) for the 2010-11 biennium, the follow-up certification estimate for the 2010-11 biennium or the BRE for the 2012-13 biennium released in January 2011.

A particular challenge presents itself with the switch from separate-entity reporting to combined reporting. In this analysis, a taxpayer's industry assignment is based on the NAICS code of the combined group as a whole; a group that in many instances will include a variety of separate entities that may be engaged in a number of different lines of business stretching across a number of industries.

Consequently, tax data assigned to a particular industry may include a substantial amount of tax generated from a combined company's activities in other industries. For example, an integrated oil and gas company may file as a combined group under "refining," an industry within the manufacturing sector, though it may also include a substantial amount of revenue from oil and gas extraction (mining) and service stations (retail). This may generate certain unavoidable inconsistencies as the tax data are shown relative to the state's economic output by industry.

Combined reporting also creates challenges in offering comparisons to previous years' analyses of the old franchise tax. In previous years, each separate entity was assigned to a particular economic sector, as opposed to now being classified in the industry of their combined group. For example, the taxpayers from the previous paragraph would all be categorized as manufacturing for the pre-margin analysis in Tables 6-10.

To adjust for these inconsistencies, the 2007 data have been recalculated, assigning the separate entities to the appropriate industry of the combined group they filed with in 2009. While this provides a more accurate presentation of the changes from 2007 to 2009, it must be noted that the industry classifications presented here will not be consistent with any previous analyses of franchise tax by industry such as provided in the Comptroller's biennial tax incidence study.

Taxpayers will also have a higher level of receipts under combined reporting. For example, three affiliated businesses, each with \$400,000, would appear as three separate \$400,000 businesses under previous analyses, but would appear as a single entity with \$1.2 million in receipts in this report. Texas businesses in this analysis will appear to be, on average, larger than some previous studies have suggested; again, not because of any structural change in the economy, but because of the method of combined reporting.

Finally, throughout this report the former tax base of earned surplus and taxable capital will be referred to as "pre-margin." The current tax is referred to as "the revised franchise tax on margin." The term "margin tax" is avoided because the tax is still referred to in statute as the "franchise tax."

SECTION 1: Comparison of Pre-Margin Tax to the Franchise Tax on Margin

Approximately \$4.5 billion in franchise tax was collected by the close of the 2008 fiscal year in August 2008. This was about \$1.4 billion below the official revenue estimate of \$5.9 billion, but \$1.4 billion *above* the amount of franchise taxes paid in fiscal 2007. Although fiscal 2011 total collections for the franchise tax were only \$3.9 billion, the collections more closely tied to the estimated collections of \$4.0 billion for that year from the 2012-2013 Biennial Revenue Estimate. Moreover, fiscal 2012 shows the highest collected amount since the inception of the revised tax of \$4.6 billion. Exhibit 1 compares fiscal and report year revenue for years 2007-2012.

Exhibit 1
2007-2012 Fiscal and Report Year Revenue (\$billions)

Year	Fiscal Year	Percent Change	Report Year	Percent Change
2007	\$3.1	20.7	\$3.0	16.8
2008	\$4.5	41.6	\$4.1	38.7
2009	\$4.3	(4.5)	\$4.4	6.2
2010	\$3.9	(9.3)	\$3.7	(14.9)
2011	\$3.9	2.0	\$4.0	7.4
2012	\$4.6	18.4	*	--

*Available early 2013

The data in **Tables 1-10** that analyze taxpayer by size and industry are based on report year data. For example, the tax liability shown on 2011 reports and displayed in Table 1 of this document was \$4.0 billion, while the tax liability shown on 2007 pre-margin reports in Table 6 was \$3.0 billion.

Tables 1-10 continue the type of analysis done in previous BTAC reports. **Tables 1-5** analyze the tax on margin for fiscal 2011, while **Tables 6-10** present the same data for the pre-margin levy. Note that the analysis will at times move between corresponding tables such as **Tables 1** and **6**, **2** and **7**, etc.

Tables 1-5 include a detailed analysis of the tax based on the first two parts of the committee's statutory charge, relating first to tax paid by industry as well as size of business, and second to how tax paid by industry compares to each industry's share of the economy.

Based on the reports filed and verified, Texas taxpayers paid a total of \$3.99 billion for report year 2011 under the revised franchise tax on margin — a 34 percent increase over the \$2.97 billion paid under the pre-margin tax in report year 2007, and a 3 percent decrease from the \$4.1 billion paid in the first year under the revised franchise tax.

Table 1 shows the actual amount of tax liability by industry and by size of firm based on total revenue for 2011. The comparison table for the pre-margin tax is **Table 6**. State revenue from the franchise tax increased by 34 percent under the new margin calculation, and some industries saw larger increases than others. Five industries — mining, agriculture, wholesale trade, rail transportation and financial activities — experienced an actual decline in franchise tax paid in 2011 compared to 2007. A number of industries, including air, truck, water and other transportation, telecommunications, waste management, health services, arts, entertainment and recreation and accommodation, experienced a more than doubling of their tax liability. In most cases, shifts of tax among the industries reflect the movement toward a more representative share of each industry's contributions to the state economy and follow the intent to share the burden of the tax in a way that more closely mirrors the economy.

Because of the current \$1 million no-tax-due threshold, the amount of franchise tax paid by taxpayers with less than \$1 million in total receipts fell by 99 percent. Increases for other businesses ranged from 45.9 percent for businesses with \$1 million to \$1 billion in total receipts, 41.1 percent for firms with \$1 billion to \$10 billion in total receipts and 38.9 percent for businesses with more than \$10 billion in total receipts.

Table 2 shows the relative share of tax paid by industry and by size of business. The table shows that most of the tax is paid by the manufacturing, mining, wholesale and retail trade and professional services industries. The table also shows that slightly more than 51 percent of the tax is paid by companies that have more than \$1 billion in gross receipts.

Compared to **Table 7**, which shows the share of the pre-margin tax by industry, approximately 15.4 percent of the tax burden shifted away from mining, wholesale trade, manufacturing and financial activity and was picked up by the professional and health services sectors along with real estate, telecommunications and retail trade. The telecommunications industry added the highest percentage of tax liability at 3.2 percent. In other words, the industries with reduced share of tax moved closer to their share of the economy, as did those that experienced an increase in share.

Table 3 shows the number of taxpayers sorted by their amount of receipts category. The real estate industry had the most taxpayers at 172,774, while the rail transportation industry had the fewest at 52. The receipts category with the highest number of businesses was receipts of \$0-\$500,000, at 752,919. A comparison of the same analysis for the pre-margin tax in **Table 8** shows that the franchise tax based on margin added 89,960 taxpayers in the real estate industry, professional services added 30,630 and 29,702 taxpayers were added in the health services sector, the three largest additions of taxpayers paying the Texas franchise tax.

Table 4 provides a comparison of tax paid by industry to gross state product (GSP). It should be noted that there may be substantial differences between how the Comptroller determines tax liability by industry and how the U.S. Bureau of Economic Analysis determines gross state product for that industry. In addition, comparisons of an industry's tax liability to its share of the economy are inconsistent to the extent that the corresponding GSP includes businesses, such as not-for-profit enterprises and sole proprietorships, that are either exempt from or not subject to the franchise tax on margin. For example, in the health services sector a significant share of GSP is generated by not-for-profit healthcare enterprises. Nonetheless, Table 4 helps provide some general insight as to how the relative share of tax paid relates to the share of the economy. The table reveals that the warehousing, arts and entertainment, and wholesale trade sectors pay closest to their respective shares of the economy.

The management of companies sector pays by far the most tax compared to its share of the economy, probably because these are generally holding companies that likely include many affiliates. This variance however, also may be attributed to different categorization approaches taken by the Bureau of Economic Analysis and the Comptroller's office. For Texas tax purposes, the reporting entity of a combined group may be a management company, though the combined group may contain a number of entities actively engaged in other lines of business.

Other sectors paying more franchise tax than their share of the economy include manufacturing, utilities, retail trade, publishing and data processing, telecommunications, professional services, management of companies, waste management services and accommodation. Sectors paying less than their share of the economy include financial services, mining, construction, real estate, health services, air and rail transportation, food services and agriculture. The table also includes a 10-year forecast of job growth for each sector and net profits as a percent of receipts. Additional analysis of these data reveals that some industries, such as retail trade, have relatively low profit margins, but still pay more tax than their share of the economy in spite of the half-percent tax rate. Also, industries such as mining make substantial payments of other taxes, including oil and gas severance.

Table 9 includes *comparable* data to **Table 4**, except that it is for the pre-margin base. A comparison of **Table 9** and **Table 4** shows that on a relative basis, the most tax was shifted *to* the telecommunications industry, while the most tax was shifted *from* the mining industry. Note that the shift from mining (\$157.8 million) was more than the shift to telecommunications (\$140.3 million).

Table 5 shows the revised franchise tax on margin liability as a percentage of total receipts from business in Texas. This table relates to **Table 10** that shows comparable data for the pre-margin tax liability as a percentage of gross Texas receipts. These tables reveal that the revised franchise tax on margin increased the effective tax rate on businesses from 0.16 percent to 0.19 percent relative to their Texas receipts.

Another observation from **Tables 5** and **10** is that the effective gross receipts rate on the very smallest taxpayers, those with less than \$500,000 of Texas gross receipts or total revenue, decreased significantly, from 0.38 percent to 0.03 percent, while the effective rate on the very largest taxpayers, those with more than \$10 billion in gross receipts or total revenue, increased from 0.10 percent to 0.14 percent. At the same time, the effective rate on most taxpayers in the middle ranges increased, and these increases began at a fairly modest level of total revenue or gross receipts of only \$1 million.

Table 5 also reveals that tax liability as a percentage of total revenue varies from 0.10 percent for wholesale trade to 0.66 percent for rail transportation. The low effective rates for wholesale and retail trade are due in part to their receiving a 0.5 percent tax rate. The rationale for this is shown in the last column of **Table 4**, which shows wholesale and retail trade having among the lowest percentages of net profit as a portion of receipts among the industries analyzed in this report. The construction and utilities industry have a lower net profit percentage than wholesale and retail trade.

The data also indicates that the effective tax rate on gross receipts, with the exception of taxpayers with less than \$500,000 in receipts, demonstrates a greater variance across industries than it does by size of taxpayer as measured by gross receipts.

As referenced above, the relevant data for the franchise tax as it existed before the margin tax base are presented in **Tables 6-10**. The pre-margin franchise tax was paid by corporations and limited liability companies (LLCs) while the tax on margin is owed by nearly all forms of businesses except sole proprietors.

Other highlights from **Tables 1-10** and **Table 11** include:

- More than **82 percent** of the tax was paid by firms with more than \$10 million in gross receipts under the pre-margin franchise tax. That percentage increased to more than **84 percent in fiscal 2009 but decreased to 76 percent in fiscal 2011**.
- More than **61 percent** of the tax was paid by taxpayers that had more than \$250 million in gross receipts under the pre-margin franchise tax. That percentage increased to more than **64 percent** under the margin calculation.
- Nearly **33 percent** of the tax was paid by taxpayers who reported between \$1 million and \$250 million in gross receipts under the pre-margin franchise tax, increasing to more than **36 percent** under the margin calculation.
- Under the pre-margin tax, the sector paying the largest share of the tax was manufacturing, accounting for more than 18 percent of the tax. Nearly half of the tax (46.5 percent) was paid by three industries, manufacturing, mining and wholesale trade. Under the revised franchise tax on margin, the manufacturing sector now pays the most at 17.7 percent of the tax, and the tax is more evenly distributed among industry sectors.
- Under the pre-margin tax, among industries that had more than a 5 percent share of GSP, the share of tax paid by the mining, manufacturing, wholesale trade, health services and real estate sectors were most different from their share of the economy. Mining, manufacturing and wholesale trade paid a significantly higher share of the tax than their share of the economy, while health services and real estate paid significantly less.
- Under the pre-margin tax, seven out of 26 industry groups analyzed for this report contributed more as a percentage of total tax than their percentage of GSP, collectively generating 45.7 percent of GSP but paying 64.8 percent of the tax for a disparity of more than 19 percent. Wholesale trade, manufacturing and mining represented the bulk of that disparity. The other 19 industry groups each contributed less as a percentage of total tax than their percentage of total GSP.
- Under the revised franchise tax on margin, eight of 26 industry groups paid more tax than their percentage of the economy, but the disparities were much less pronounced, indicating the tax more closely mirrors the economy. These eight industries contributed 55 percent of the tax but accounted for 40.4 percent of GSP, for a more modest disparity of 14.6 percent.
- Under the revised franchise tax on margin in fiscal 2009, among industries that had more than a 5 percent share of GSP, only the manufacturing industry could be said to have tax liabilities that were more than 2 percent higher than their share of the economy. In fiscal 2011, only retail trade had tax liabilities that were

more than 2 percent higher than their share of the economy, in spite of their tax rate of 0.5 percent. Under the pre-margin tax, five major industries paid significantly more or less than their share of the economy. Mining, manufacturing and wholesale trade paid more and real estate and health services paid less.

Analysis of **Tables 1, 2, 6** and **7** shows that under the pre-margin tax, 74 percent of the taxpayers had gross receipts of less than \$500,000, and these taxpayers accounted for 3 percent of the tax. Under the revised franchise tax on margin, taxpayers with gross receipts less than \$500,000 now represent 78 percent of taxpayers and pay only 0.1 percent of the tax. **The \$1 million No Tax Due Threshold for 2010-2012 exceeds the gross receipts of 85 percent of taxpayers.**

Table 6 shows that under the pre-margin tax, slightly less than 14 percent of the tax was paid by manufacturers that had more than \$250 million in gross receipts. **Table 1** shows that this percentage has increased slightly to just less than 15 percent. The largest similar category is mining sector firms with more than \$250 million in receipts, whose share of total tax payments decreased from just less than 14 percent of all tax payments to less than 7 percent under the revised franchise tax on margin.

The shifts in percent of tax borne by the mining and wholesale sectors and the very largest businesses were likely influenced by broadening the tax to additional unincorporated entities, instituting combined reporting, and repealing the throwback provision, which likely helped some retailers and manufacturers. **Also of note is that, for the largest businesses with more than \$10 billion in total revenue, the share of the tax went up from 26 to 26.9 percent, as their tax liability increased from \$773 million in 2007 to just under \$1.2 billion in 2009 to just under 1.1 billion in 2011. Their tax as a percentage of gross receipts or total revenue increased from 0.10 percent in 2007 to slightly less than 0.14 percent in 2011.**

On the other hand, the combined effects of the \$1,000,000 exclusion for total revenue, the no-tax-due provision for liabilities less than \$1,000, and the EZ calculation for taxpayers with \$10 million or less in total revenue significantly reduced the tax burden of the smallest taxpayers — those with less than \$1 million in total annualized revenue. As a comparison of **Tables 2** and **7** shows, the effects of these provisions for taxpayers with between \$1 million and \$250 million in total revenue increased the percentage of tax paid in all revenue categories compared to the pre-margin tax, with the largest increase for the taxpayers between \$1 million and \$5 million, in spite of the availability of the EZ computation. As noted above, the percentage of tax paid was higher for the largest taxpayer group.

As noted previously, an important factor in determining how well the tax is performing compared to the economy is an evaluation of how the percentage of franchise tax paid, both before and after the margin tax base, compares to each industry's share of the economy.

Table 11 demonstrates that the revised franchise tax on margin maps the economy much more closely than the pre-margin tax did. As noted above, the ideal of half of industries paying slightly more than their share and half paying slightly less was almost achieved with the revised franchise tax on margin. The increase from seven to 10 industries paying more than their share represented a much reduced disparity, as the 10 industries collectively pay 15 percent more than their share of GSP, while the seven from the previous tax collectively paid more than 19 percent more than their share of GSP.

Table 11 also points out that on average, an industry pays a little over 1 percent of its share of GSP (1.20 percent). This percentage is down from more than 1.5 percent before the margin calculation. Using a weighted average that adjusts for relative size of industries, the improvement was even more impressive, with a 39 percent improvement, from a 2.8 percent difference down to a 1.7 percent difference.

SECTION 2: Economic and Interstate Analysis

The committee looked at all U.S. states as a group to see how the taxes businesses in Texas pay compare to those in other states. In **Table 12**, the committee looked at general business taxes such as corporate income taxes and corporate and partnership licensing fees. These help to provide a direct comparison of the franchise tax to the general business taxes in other states. In addition to these general business taxes and fees, however, businesses also pay sales, property and other taxes. **Table 13** provides a more comprehensive look at the overall tax liability businesses face among the most populous states, and how Texas compares. The information in **Table 13** is taken from Ernst & Young's *Total State and Local Business Taxes* report published in July 2012.

As shown in **Table 12**, most states levy a corporate income tax, with rates that range from 1 percent (Alaska, Arkansas) to 12 percent (Iowa). On average, these states rely on the corporate income tax to produce 5.3 percent of their tax revenue. States also levy other taxes, such as corporate license taxes, directly on business, and an increasing number of states now levy minimum taxes based on gross receipts.

When simply focusing on the states' revenues from the corporate income tax and other direct state-levied business taxes, such as the revised Texas franchise tax, we see that only seven states show that their state-levied business taxes increased as a percentage of total taxes collected during the period from fiscal 2007 to fiscal 2011. Of these seven states, the ones with the largest percentage increases were Delaware, Maine, and Texas, at 1.9 percent, 0.8 percent and 0.7 percent respectively. Before revising the franchise tax, Texas relied on its general business tax for about the same percentage of state tax revenue as the average state, at about 10 percent. It was anticipated that this percentage would increase to just less than 15 percent because the franchise tax levied on margin would include new taxpayers not previously subject to the tax. The actual Texas percentage for fiscal 2011 is 10.6 percent, while the all-state average dropped to 8.4 percent.

The following items compare the contribution of different types of business taxes to total business taxes for the U.S. and for Texas. The first set of bullet points are for the U.S. They also highlight changes in these numbers between fiscal 2007 and fiscal 2011.

- Total business taxes collected in the United States increased from \$577.5 billion in fiscal 2007 to \$643.9 billion in fiscal 2011.
- Property and sales tax together are the largest component of business taxes, accounting for 58.0 percent of total business tax paid in fiscal 2007 and 58.2 percent in fiscal 2011.
- The contribution of corporate income and license taxes over this same period fell slightly from 19.8 percent to 17.2 percent.
- The contribution from all other business taxes, which include **excise, unemployment insurance and severance taxes**, rose from 22.2 percent to 24.6 percent.
- These percentages for the 10 most populous states were similar to those of all the states.

By comparison, **Texas** shows a slightly different pattern in the contributions of the different business taxes to its total business taxes.

- Total Texas business taxes also increased during this period, from \$47.9 billion in fiscal 2007 to \$56.7 billion in fiscal 2011, an increase of \$8.8 billion.
- Property tax contributed \$6.6 billion to the increase, sales tax \$0.5 billion, excise/unemployment tax \$0.9 billion, and franchise/other business license taxes contributed \$0.8 billion, to bring the net increase to \$8.8 billion.
- As a percentage of total business taxes, the contribution of the property and sales tax component climbed from 66.8 percent to 69 percent — a much larger figure than the 58 percent for the U.S. in both years.
- Looking at the Texas changes in each tax component as a percentage of total business taxes, the property tax component increased from 38.4 percent to 44.1 percent, the sales tax component fell from 28.4 percent to

24.9 percent, the franchise tax/business license tax component fell from 15.9 percent to 14.8 percent and other business taxes (e.g., excise, unemployment insurance and severance) fell from 17.3 percent to 16.2 percent.

These figures confirm the impression of many Texas businesses that property tax rates and values continued to increase after the initial relief passed in conjunction with the changes in the Texas franchise tax. They also show that the corporate income/franchise/license tax component decreased by 1.0 percentage point, to a 14.8 percent share of all Texas business taxes in fiscal 2011. Similarly, this component for the U.S. also decreased by 2.6 percentage points to 17.2 percent, indicating a broad trend away from the relative share for corporate income taxes. The Ernst & Young report also compares taxes relative to the amount of economic activity in a state by expressing a state's total business taxes and its total taxes as a percentage of its Gross State Product (GSP), the total value of a state's annual production of goods and services by the private sector. The result is two metrics for state economic activity that then can be used to compare cross-state competitiveness. Note that since these percentages represent an estimated tax burden measure on business activity by state and local governments; a lower percentage increases a state's ranking in terms of business tax competitiveness. The bullet points below include data for other states and comparisons to Texas.

- For fiscal 2011, business tax revenues as a percentage of GSP ranged from 3.5 percent for North Carolina and Oregon to 15.4 percent for Alaska.
- Texas is at 5.1 percent, or 0.1 percent above the all-state average of 5.0 percent, placing it 32nd in an all-state ranking.
- In fiscal 2007, Texas' percent was the same as the all-state average of 5 percent.
- When Texas is compared to the 10 most populous states in 2011, it ranks seventh-lowest out of 10. (See **Table 13**)
- However, when total tax revenues as a percent of GSP is used as the metric, Texas has the fourth-lowest tax burden among all states behind only South Dakota, Delaware and Louisiana, and ranks first when compared to the 10 most populous states. (See **Table 13**)

In sum, Texas businesses pays a higher percentage of all taxes than businesses in most other states, but because total taxes are relatively low in Texas compared to other states, the Texas business tax burden as a percentage of GSP in 2011 is very consistent with the burden in other states and only slightly higher than the 50-state average of 5.0 percent, at 5.1 percent.

Charts 1 and 2 show the breakout of state and local taxes for the U.S. and Texas by dollar amount for fiscal 2011. The charts show that Texas relies more heavily on both property and sales taxes than most states. In Texas nearly 70 percent of business tax revenue comes from sales and property taxes while the average for all states is 58 percent. The full report from Ernst & Young can be found at: <http://www.cost.org/WorkArea/DownloadAsset.aspx?id=81797>.

Table 14 shows the District of Columbia and nine states, including Texas, which have general business taxes, some in addition to and others in place of a corporate income tax. Common traits among most of these states include a tax base other than corporate income and imposition of the tax on both corporations and other business entities. These states offer varying levels of relief for small taxpayers that take various forms from exemptions based on gross receipts to tax credits. Some states also have a business license fee or flat minimum tax to ensure that every business pays some amount for the privilege of operating in the state.

The Texas franchise tax revenue as a percentage of total Texas tax revenue increased 1.6 percentage points from fiscal 2007 to fiscal 2011. This increase is made up of a 2.7 percentage point increase from fiscal 2007 to fiscal 2009 and a decrease of 1.1 percentage point from fiscal 2009 to fiscal 2011. The 2010 BTAC report referred to the fiscal 2009 increase in the Texas franchise tax and commented that the four other states showing an increase in their general business tax percentage for fiscal 2009 (Delaware, Washington, Michigan, and Ohio) all had some form of gross receipts tax as their principal business tax. However, in 2011:

- Michigan repealed the Michigan Business Tax (MBT), a modified gross receipts tax implemented only four years ago, in favor of a 6 percent corporate income tax (CIT) generally imposed only on C corporations. The CIT became effective January 1 2012. Current Michigan filers must submit an MBT return for tax year 2011;
- the revenue from Ohio's now fully phased-in Commercial Activity Tax (CAT) is falling below projections; and
- Nevada, a state with no corporate or individual income or franchise tax, looked into enacting a corporate margin tax modeled after the revised Texas franchise tax in order to raise revenue. Ultimately, however, Nevada's budget shortfall was resolved through other means.

On the other hand, Oklahoma enacted a general business tax called the Business Activity Tax (BAT), which broadly defines "persons" and "business activities" to expand the reach of the BAT beyond corporate taxation. The BAT is imposed at an annual rate of \$25 plus 1 percent of net revenue. However, for tax years 2010-2012, the 1 percent rate will not apply. Taxpayers simply must compute and report the net revenue during this period for informational purposes. Note that on November 6, 2012, voters approved legislation to allow the BAT to expire in 2013.

Table 14 includes brief descriptions of each state's general business tax.

Another factor in the analysis of these general business taxes is to consider how much these states rely on these taxes. The average (New Jersey is excluded because its minimum tax is not accounted for separately) is 8.7 percent, only slightly more than the 8.4 percent average for reliance on direct business taxes among all the states. Texas, at 10.1 percent, barely joins New Hampshire and Washington as states that rely on such a levy for more than 10 percent of its state revenue.

Table 15 is an interstate comparison of apportionment formulas, combined reporting requirements, the use of throwback provisions and nexus standards. States use various combinations of these elements to structure their tax systems to determine the portion of a multistate business entity's activity which can be attributed to their state. For instance, a recent trend in state tax policy has been to opt for apportionment or allocation provisions that are either beneficial or less harmful to in-state taxpayers, but may be far less benign to out-state taxpayers.

Apportionment policy across the states continues to place a greater emphasis on the sales factor, with 37 of 46 states employing an apportionment factor that relies at least 50 percent on sales as opposed to property or payroll, an increase of one state (Alabama) since the last BTAC report. Of the 37 states that have a 50 percent or more sales factor, 19 are either phasing in or currently using only the sales factor. Only 9 states still use the traditional three-factor formula with equal weighting to property, payroll and sales. California's recent tax law changes now permit the elective use for certain taxpayers of single-factor sales apportionment.

The 19 states with 100 percent sales factor, either currently or planned, are Arizona, Connecticut, Georgia, Illinois, Iowa, Indiana, Kentucky, Maine, Michigan, Minnesota (1/2014), Mississippi, Nebraska, New York, Ohio (effective with CAT phase-in), Oregon, South Carolina, Texas, Vermont and Wisconsin.

Since the publication of the 2010 BTAC report, there has been no change in the number of states (23) that, like Texas, have adopted mandatory combined reporting (although the District of Columbia did adopt combined reporting beginning in 2011). Twelve other states either require or permit a combined report under certain conditions. The most common reason to require a combined report is to more clearly reflect the state from which income was derived.

Since Maine has repealed its throwback rule, 22 (instead of 23) states now have throwback provisions. Throwback attributes income to the state where a sale originates when the taxpayer does not have nexus in the destination state. Fifteen states, down from 16 two years ago, have both combined reporting and throwback. Eight including Texas have combined reporting and no throwback provision. Both combined reporting and throwback can be a state's response to tax avoidance techniques such as the use of subsidiaries and fees for intangibles that exist more frequently in separate entity states. Another approach to the issue of tax avoidance is to require add-backs of expense to affiliated entities that do not have nexus. There are 21 states that use some form of intangible expense add-back.

Another change Maine made was to adopt *Finnigan* instead of *Joyce*. *Joyce* and *Finnigan* are two California court cases that refer to two different ways of calculating the apportionment sales factor in a combined group report. The committee takes no position on the merits of either *Joyce* or *Finnigan* as a method of calculating apportionment, but presents the following as background information on these approaches. Most states use the *Joyce* approach, which does not include in the numerator of the apportionment formula in-state receipts from affiliated entities that do not have nexus in the state on a separate entity basis. The alternative *Finnigan* approach establishes nexus for the whole combined group if one entity has nexus — resulting in higher taxes paid to the *Finnigan* state. A taxpayer may find a portion of these higher taxes is offset if they are no longer subject to “throwback” in the state from which the sale originated.

One commentator on the *Finnigan* versus *Joyce* alternatives observed that the choice is based on a series of statutory, judicial and regulatory rulings and that there may be some disagreement on which states fit into which category. With that caveat, Table 15 shows that of the 23 combined reporting states, 13 use *Joyce* and 10 use *Finnigan*, a net increase of three for *Finnigan* and a loss of three for *Joyce* since the last BTAC report. Of the 15 states that have combined reporting and a throwback provision, six now use the *Finnigan* approach, a net increase of two in the last two years. Additionally, three of the eight states that have combined reporting and no throwback use *Finnigan*. Texas, a state with combined reporting and no throwback, continues to use *Joyce*.

Table 16 shows Texas’ ranking in various indexes both before (2007) and after (2008 through the most recent ranking) the passage of the revised franchise tax, though even these rankings may not reflect the actual liability of the tax.

Texas is no longer runner-up to North Carolina in *Site Selection Magazine’s* Top Business Climate rankings. Texas rose from No. 2 to No 1 in 2011. Rankings are based half on a survey of corporate executive site seekers and half on five subcategories of more data-driven criteria, which include information on new plants or expansions adjusted for population and physical size of the state and Texas’ rankings in other surveys.

The Tax Foundation’s *State Business Climate Index* is a tool to evaluate which states’ tax systems are the most hospitable to business and economic growth. The taxes considered are weighted in the following order: personal income tax, sales tax, corporate income tax, property tax and unemployment taxes. Texas’ ranking continues its modest downward trend from sixth place before enactment of the revised franchise tax, to eighth after its enactment, to ninth in 2013. It remains in the Top Ten of this list in spite of its 38th ranking in the corporate tax category and 36th ranking in the sales tax category.

In discussing the disadvantages of gross receipts taxes, the Tax Foundation points out that their effects can be mitigated by permitting deductions for employee compensation and cost of goods sold. They specifically mention that Texas allows a deduction for either employee compensation or cost of goods sold.

Texas maintains its third place ranking in 2011 (having gone from 11th to 9th to 3rd) in the *Small Business Survival Index* published by the Small Business and Entrepreneurship Council. This index emphasizes the importance of investment and economic risk-taking in driving the economy. The index includes 31 “government-imposed or government-related” costs that affect investment. Among the tax factors used in the assessment are state personal and corporate income tax rates as measured by a tax’s highest rate. Sales, gross receipts and property taxes are included in the index as a percentage of personal income.

In the Beacon Hill Institute’s *Metro Area and State Competitiveness Report*, Texas’ ranking went from 22nd to 20th after enactment of the revised franchise tax, fell to 24th in 2009 and then rose to 15th in 2011. This report attempts to quantify competitiveness by aggregating key microeconomic variables into a single index. The seven areas measured are government and fiscal policy, security, infrastructure, human resources, technology, business incubation, openness and environmental policy. Texas ranked 24th in the government and fiscal policy category, of which the franchise tax and property tax relief are a part. Its principal competitive advantage in this area was its favorable state and local taxes-per-capita score of 6.

The Cato Institute gave Texas a C in its *Fiscal Policy Report Card on America's Governors*, down from a B in the recent past. The actual quantitative factors used in the study relate to changes in state spending and tax revenue as well as tax rates. The 2012 report suggests that the franchise tax on margin was a factor in dropping the grade from a B to a C by noting the additional taxpayers subject to the revised tax. The report did not appear to give sufficient offsetting credit for the associated property tax relief enacted with the revised tax.

The State New Economy Index, published by the Kauffman Foundation, measures outputs such as number of knowledge and information jobs rather than inputs such as taxes. Texas ranked 14th on this index in 2007 and 18th in 2010. Texas excelled in the areas of globalization and export focus of its manufacturing and services — ranking first in this category in 2010.

SECTION 3: Observations

Revenue Underperformance: Challenges of Using a Business Tax as a Revenue Source

The franchise tax on margin was developed in 2006 after a decade of analysis, study and multiple proposals considered by the Legislature. Broadening the scope and application of the franchise tax was a primary goal that led to the enactment of the franchise tax on margin. The revenue performance of the tax on margin during its first five years as compared to the last five years of the pre-margin tax is shown in **Table 17**. The table shows that revenue from the tax on margin began in **fiscal 2008 and produced \$4.45 billion**. This was significantly **below the original estimate of \$5.9 billion**. **Revenue from the tax declined to \$3.93 billion in fiscal 2011**, such that it is nearly the same percentage of gross state product that the pre-margin tax was in its last year. This comparison must include a note that the effects of the recession played a significant part in the poor performance of the tax and likely accounted for virtually all of the decline in tax collections from fiscal 2008 to 2011. **By way of comparison, the Comptroller estimates that the pre-margin tax would have produced only about \$2.7 billion in fiscal 2011**. **Revenue from the tax increased to 4.56 billion in 2012, most likely a sign that the Texas economy is picking up**. Even so, revenue from the tax continues to fall short of the original HB 3 estimates.

Table 17 also shows that revenue from the franchise tax in the five years before the switch to the margin base was about 7-8 percent of all tax collections on average. This is consistent with the historical percentage for the tax. For perspective, the tax produced 8.7 percent of total tax revenue in fiscal 1999. The revised franchise tax has consistently brought in 10-11 percent of all taxes over the last five years, a slight increase from the prior franchise tax.

The revised franchise tax on margin as passed by the Legislature in 2006 is, in concept, fairly simple. The tax base is total revenue reduced by one of three amounts: cost of goods sold, compensation or a minimum deduction of 30 percent of revenue. However, as is the normal case for major tax legislation, additional provisions and complexity were introduced in order to mitigate the impacts on certain groups of businesses. Smaller businesses benefited from several provisions including relief of all liability if total revenue is below a threshold (\$1 million in 2010, \$1,030,000 in 2012 and 2013 and \$600,000 in 2014 and beyond). In addition, discounts off tax due will be available in 2014 and beyond if total revenue is less than \$900,000. Businesses with less than \$10 million in total revenue can use a larger minimum deduction — effectively 42.5 percent rather than 30 percent. Another group of businesses engaged in trade (wholesale or retail) are taxed at a rate that is half that applied to other businesses, in acknowledgment of the very low rates of profit that are normal for those industries. This provision required a fairly complex definition of who qualifies for the lower rate. Provisions specifying which businesses can exclude certain flow-through items from total revenue and which businesses can use cost of goods sold for their deduction, and which businesses cannot, also add complexity to the tax.

Complexity in the law is more than matched by the complexity of business models. Many businesses encompass multiple activities that cross over the traditional lines of production, trade, and services. How a particular business model fits up to the tax provisions can be a difficult call. The likely impact on tax revenue when complex tax provisions meet up with complex business models is that it will fall short of estimates if those estimates were based on traditional business models.

The tax was developed to achieve the following three main goals by implementing a broadly based, low rate tax:

1. To raise revenue for property tax relief.
2. To eliminate certain tax planning opportunities.
3. To make the franchise tax better reflect the current economy.

The **first goal**, raising revenue to provide property tax relief, has been met much less successfully than the other two. When the Legislature decided to make the state's business tax the principal revenue source for paying down property tax rates, it faced several challenges. One of the challenges related to addressing tax planning issues, as mentioned above. A second challenge was to produce a substantial (100 percent) increase in the business tax in an environment in which business taxes, particularly corporate income taxes, have been declining in importance in most states. Exhibit 2 shows how revenue from the tax compares to various Comptroller estimates since its passage in 2006.

Exhibit 2**Estimated and Actual Revenue for Franchise Tax on Margin (\$ billions)**

Fiscal Year	Original HB 3 Fiscal Note Estimate	2010-11 Biennial Revenue Estimate	2012-13 Biennial Revenue Estimate	Actual Revenue
2008	\$5.9	NA	NA	\$4.5
2009	\$6.0	\$4.4	NA	\$4.3
2010	\$6.4	\$4.4	NA	\$3.9
2011	\$6.8	\$4.5	\$4.0	\$3.9
2012	NA	NA	\$4.3	\$4.6

Regarding the **second goal** of reducing the impacts of tax planning, the revamped franchise tax made progress on two fronts. First, businesses can no longer avoid the tax by **restructuring** into a non-corporate form, such as a limited partnership, which retains liability protection for owners. Thousands of additional entities have been brought into the tax and these taxpayers contribute a significant 16 percent share of the tax. A second issue addressed is **transfer pricing**. This refers to transactions between related parties that are not at arms' length. Because the Texas franchise tax had been based on a separate entity concept, the Texas entity could sell an item to a related entity not subject to Texas franchise tax at a low price and thereby reduce its earned surplus. The revised franchise tax uses combined reporting and a broader tax base, which help alleviate this concern. Another issue addressed by combined reporting was Geoffrey's arrangements, where taxpayers were able to reduce their tax considerably by making large payments for intangibles to out-of-state affiliates. Finally, many non-publicly traded corporations were frequently able to minimize tax under the pre-margin base by paying out profits as compensation.

Table 11 (discussed earlier) speaks to the **third goal** and shows that the incidence of the tax fits more closely to the structure of the economy. Of the three goals, the tax has been at least moderately successful in achieving the second and third.

Cost of Goods Sold (COGS): Use and Results of Application

Table 18 provides a detailed analysis of factors that contributed to the original estimate of tax collections from the margin base. The table reveals that many major aspects of the tax were estimated accurately, including the apportionment ratio, Texas revenue, the overall tax rate and the amount of credits and discounts taken.

The table also shows, however, that the main contributor to the overall estimate's variance from actual collections related to the cost of goods sold deduction. First, the number of taxpayers that deducted COGS was higher than estimated. The percentage of total Texas revenue from all taxpayers deducting COGS as a group was originally estimated at 80 percent of all Texas revenue reported, but has actually been 85 percent or more each year. Thus the total revenue eligible to be offset by the COGS deduction was actually 5 to 6 percent more than estimated. Secondly, the amount deducted by specific taxpayers taking COGS was higher than estimated. Individual taxpayers that used COGS were able to reduce their Texas revenue by 82 percent or more each year, while it was expected that the reduction would be 68 percent. Therefore, the tax base has been between 16 and 18 percent of revenue rather than the anticipated 32 percent for taxpayers using the COGS deduction.

The relative size and predominant use of the COGS deduction as shown in **Table 19** meant that this variance may have contributed to a \$2 billion reduction in actual revenue collections compared to estimate. Specifics of the COGS deduction that contributed to this are discussed later in this section of the report.

Table 19 shows the predominance of COGS over other franchise tax deductions and filing methods. This effect was apparently intended generally by the Tax Reform Commission, as its report was critical of taxes "levied primarily on tangible items despite an economy that is increasingly service-driven." In each of the last four years, approximately 60 percent of tax revenue is collected from those who use COGS as a deduction. The COGS deduction from revenue is larger than other methods of calculating the tax. One way to look at that difference is to note that

taxpayers using the COGS deduction reported more than 85 percent of the revenue apportioned to Texas (from Table 18). That means taxpayers who did not or could not use the COGS deduction paid nearly 40 percent of the tax on less than 15 percent of the apportioned revenue.

The complexity in COGS is due to the size and nature of the COGS calculation that was created for the Texas revised franchise tax. COGS for Texas franchise tax purposes is not coterminous with COGS under Generally Accepted Accounting Principles (GAAP) nor the Federal Income Tax (FIT) code. Texas COGS, with the exception of officer compensation and selling expenses, generally expanded federal COGS to include items that can be expensed for federal purposes. This, in effect, brought the franchise tax base closer to the size of an income tax based on federal taxable income for industries where the COGS deduction predominates.

The old earned surplus component of the franchise tax, which was largely based on federal taxable income, had a rate of 4.5 percent and a taxable capital component that produced additional revenue. The pre-margin franchise tax also had a throwback provision that the franchise tax on margin does not have. The franchise tax on margin was supposed to bring in almost twice the amount of revenue at a maximum rate for any taxpayer of 0.7 percent.

Aside from Texas COGS being more expansive than federal COGS, the purpose of the provisions also differ and have different effects on their respective tax bases. For federal tax purposes, COGS allows for the deduction of qualifying inventory costs when the goods are sold. The costs of unsold goods at the end of the year are included in ending inventory and are not deductible until a future year, so it is merely a timing difference for federal purposes. On the other hand, the purpose of Texas COGS is to identify all qualifying costs that are deductible as COGS to compute margin. Any Texas non-COGS costs are not deductible from revenue to arrive at margin. However, federal non-COGS amounts are deductible currently on other lines of the federal return to calculate federal taxable income.

In other words, for purposes of the Texas revised franchise tax, a larger COGS reduces the tax base. For federal tax purposes, increasing COGS actually increases the tax base in the short run, because it increases the value of ending inventory, delaying deduction of certain costs until a subsequent year. Therefore, given the definitional differences and opposite effects of the two COGS provisions, taxpayers have more opportunity and incentive to include more in their Texas COGS than in their federal COGS.

That being said, it is unlikely that tying Texas COGS to federal COGS would increase franchise tax revenue. Because costs not usually reported on the federal COGS schedule could be included there without penalty, and because those costs are otherwise allowed as deductions for federal tax purposes, Internal Revenue Service (IRS) auditors are likely not concerned with the inclusion of those costs. Therefore, Texas auditors would have to audit the federal COGS number in greater detail than IRS auditors if Texas were to tie Texas COGS to federal COGS. In addition, tying Texas COGS to federal COGS would create fairness issues since certain, generally smaller, taxpayers do not have to use COGS for federal purposes. They may currently deduct the expenses. Therefore, those taxpayers would not get as many deductions for Texas franchise tax purposes that larger taxpayers would get.

One other issue related to COGS that has been raised by certain industries is the fact that the deduction is not available to service businesses. For a number of service businesses, this is not a major obstacle because salaries and benefits make up a significant part of the “costs of services produced” and any non-deductible “cost of services produced” would be small by comparison. However, for capital-intensive service businesses and businesses that rely on contract labor, the non-deductible “cost of services produced” is significant. For example, telecommunications firms have quite high capital costs even compared to manufacturing firms, but are unable to make use of the COGS deduction as a result of their status. Another service industry that has high non-deductible “costs of services produced” is the transportation industry. Most of the time they use independent contractors to deliver their services, but are unable to deduct these costs when calculating taxable margin. These industries believe this issue should be reviewed as part of any comprehensive legislative review of the tax.

Other Factors

As shown on **Table 18**, research by the Comptroller's Revenue Estimating Division suggests that the size of COGS was the most important revenue factor from the revised franchise tax underperforming the estimate. Some other possible factors in the shortfall of revenue as compared to the estimate (shown in bold) are discussed below.

The Comptroller reports that some taxpayers who do not qualify for the 0.5% **rate** have claimed it. This rate is available only for taxpayers who fall under Divisions F and G (Wholesale and Retail Trade) of the 1987 Standard Industrial Classification Manual. This system, like the North American Industry Classification System (NAICS) that replaced it, was designed to classify industries for purposes of collecting, analyzing and publishing statistical data, not to apply to a tax system. Some taxpayers, in order to cut their franchise tax liability in half, have classified themselves into a category that the Comptroller has challenged. For example, auto body repair shops do not fall under Divisions F or G, but many such entities report themselves as retailers and have taken the 0.5 percent rate instead of the 1 percent rate.

In addition, some businesses have raised the issue of how well this classification and the statute generally identify retailers and wholesalers in another sense. They argue that as businesses have evolved, many companies are now primarily retail businesses although they retain an older, outmoded categorization under the federal government's classification scheme. They further believe the Legislature should consider an alternative classification system that would provide a different test for defining business types.

The EZ computation does not allow a deduction for COGS or compensation. The Comptroller has noticed that the **percentage of exclusions on the EZ franchise tax reports** is substantially higher than on the long form franchise tax reports. Through a desk audit program, the Comptroller has denied the EZ computation rate to many taxpayers that were not eligible, resulting in assessments based on the difference in tax rate.

Taxpayers who preserved their right to claim a **temporary credit** against taxable margin may claim the credit for 20 consecutive privilege periods beginning in 2008. In the previous report (December 2010), it was noted that Comptroller records showed that more than \$171 billion in business losses have been preserved by taxpayers. These business loss preservations translated into a potential for more than \$7.7 billion in credits to be taken during 20 years.

In early 2012, a project was launched to verify preservation amounts with taxpayers in an effort to reduce the redundancy of some preservation amounts on Comptroller records and also to begin to track the "common owner" of each combined group. The common owner information is important in determining when an entity has "changed combined groups," as the statute disallows the temporary credit for entities that change combined groups after June 30, 2007.

To date, this project has reduced the amount of preserved business losses on Comptroller records by more than \$12 billion, which translates to a \$540 million reduction in the amount of temporary credit available to taxpayers. Not only has this project provided the Comptroller with a more precise estimate as to the potential credit available to taxpayers, it has also given the agency the tools to better track changes in the common owner of combined groups, which will help to identify entities that no longer qualify for the credit.

Another factor affecting both taxpayers and the state is the added complexity of the tax, which is both a function of it being new and the fact that it relies on a non-traditional tax base of margin. Taxpayers have frequently incurred additional tax preparation costs and the state has devoted additional resources to implementation and audit.

Auditing the Margin Base

The Comptroller is currently auditing the tax using several resources to ensure that there is appropriate audit coverage. First, all field offices are generating audits on single reporting entities after conducting a cursory review and determining that there might be a compliance issue. In addition to those audits, the Comptroller's Audit Division has two large groups in our Dallas West and Houston North offices as well as auditors in our four out-of-state offices working on

field audits of larger taxpayers who file combined returns. Ultimately, these audits will cover the largest 2,000 taxpayers, encompassing more than 100,000 affiliated entities. Finally, in our Business Activity and Research Team (BART), we continue to have a very strong process of initiating nexus contacts and setting up taxpayers using both Texas Workforce Commission reports and federal tax information. We have also seen a large increase in voluntary compliance through the Voluntary Disclosure program where taxpayers are registering and reporting franchise tax.

As of August 31, 2012, approximately 4,500 revised franchise tax audits have been completed, resulting in assessments of more than \$87 million. BART has assessed more than \$61 million thus far.

Litigation

As predicted, the Comptroller's Tax Policy Division is currently spending a substantial portion of its time preparing for and participating in administrative hearings and court cases. Currently, there are more than 550 revised franchise tax hearings and 21 court cases pending.

It is not surprising that more than 30 percent of this pending litigation is related to the cost of goods sold deduction. The complexity and unconventionality of the COGS deduction has resulted in an abundance of litigation. At issue in most cases is an entity's eligibility to take the COGS deduction, what costs may be included in the deduction or both.

Another large source of litigation is the qualification for exclusions from total revenue for flow-through funds that are allowed by statute for certain taxpayers including real estate brokers, securities underwriters, construction general contractors, destination management companies and, most recently, live event promotion companies and courier and logistic companies. Taxpayers from service industries are not eligible for the COGS deduction and are looking to reduce their total revenue by taking these exclusions.

Issues with the tax rate, 0.5 percent versus 1 percent, also account for a large portion of the litigation. The 0.5 percent rate is available only for taxpayers who fall under Divisions F and G (Wholesale and Retail Trade) of the 1987 Standard Industrial Classification Manual. Difficulties in classifying entities from industries that didn't exist in 1987, industries that have undergone vast technological changes and entities that can be characterized in more than one division of the SIC Code all have led to litigation.

Another contested issue is the use of the Multistate Tax Compact (MTC)'s apportionment factor. Taxpayers are filing amended reports using the MTC's three-factor apportionment formula and, although Texas is a member of the MTC, the Texas Tax Code allows for only a single-factor apportionment formula based on gross receipts. Several hearings on this issue have already been determined, with the Comptroller prevailing in each case.

Litigation concerning the use of the MTC three-factor apportionment formula is not limited to the state of Texas. In fact, a California Court of Appeals ruled on July 24, 2012 that the MTC's three-factor apportionment formula cannot be superseded by conflicting state law. The court initially vacated the original decision on its own motion. However, on October 2, 2012 in *The Gillette Company, et al., versus California Franchise Tax Board*, the California Court of Appeals again upheld the right of the taxpayers to elect to apportion and allocate income to California using the Multistate Tax Compact. Meanwhile, the state of California also withdrew from the compact on June 27, 2012. The Court of Appeals decision has now been appealed to the California Supreme Court, and although that decision sets no precedence in Texas, it may prompt a surge in refund claims that challenge the legitimacy of the Texas Tax Code's mandatory single-factor apportionment formula.

Texas, however, is not exactly in the same position as most other MTC states because Texas does not have a state *income* tax. The MTC allocation and apportionment method applies only to income tax. Although it can be argued that the revised franchise tax is essentially an income tax, that contention has not yet been tested in court. The Comptroller will also be closely tracking pending litigation in Michigan that concerns the MTC apportionment

formula and Michigan's unique business tax (a combination of net income and gross receipts) that existed prior to its current state corporate income tax.

The Texas Supreme Court, in *Allcat Claims Service, LP and John Weakly Realtors*, upheld the constitutionality of the franchise tax against the facial constitutional challenge raised by *Allcat*, rejecting *Allcat*'s argument that the tax was an unconstitutional tax on partnership income allocable to natural persons. Relying on the adoption of the entity theory of partnerships in Texas, the Texas Supreme court stated that the Bullock Amendment — the constitutional restriction on taxing personal income without voters' approval — does not preclude taxing business entities for the privilege of doing business in Texas and taking advantage of the option to limit the liability of the owners of a business as *Allcat* does by means of the limited-partnership structure. The court concluded that the franchise tax constitutes a tax on *Allcat* as an entity; it does not constitute a tax on the net income of *Allcat*'s natural-person limited partners within the meaning of the Bullock Amendment.

The franchise tax was further challenged in *Nestle USA, Inc. versus Susan Combs* under the equal and uniform clause of the Texas Constitution and the Equal Protection clause of the U.S. Constitution. The Texas Supreme Court heard oral arguments on September 18, 2012. On October 19, the Court upheld the tax by ruling that it did not violate the constitutional requirement that taxes be uniform and equal.

Looking Ahead

In general, the outlook for the tax is largely unchanged since the last report. While the tax will likely underperform original expectations indefinitely, it did show some measured resiliency in the face of the Great Recession by only declining about 15 percent from its performance during its first year of existence in fiscal 2008. Also, revenue from the tax rebounded well in fiscal 2012, exceeding the estimate in the 2012-2013 Biennial Revenue Estimate.

The Comptroller's office has reported that it is unlikely that expected hearings, court decisions and audit coverage will result in the tax ever producing the revenue originally estimated. As the Legislature enters the 2013 session, there may be a move to revisit the issue as to whether the tax has operated as intended.

As noted in previous reports, this question can be approached from a variety of perspectives not limited to revenue performance. The tax undoubtedly closed many loopholes that existed in the pre-margin base with the intent of creating significant new revenue for property tax relief. As noted in Section 2, the tax does, however, continue to generate revenue consistent with the proportionate amount of revenue produced by business taxes in most states. Also noted is the fact that the margin base, as intended, has redistributed the burden of the tax to reflect the economy much more closely.

Nonetheless, the impact of past and future revenue projections for the tax and their comparison to actual revenue collections may remain a part of the overall budget discussion. While it is beyond the scope of this report to discuss the property tax, policymakers will likely analyze the ongoing impact and cost of the property tax relief that the revisions to the franchise tax were designed to pay for in part. Data limitations and assumptions about school districts' response to tax rate compression will, however, significantly affect that analysis.

As was made clear in legislative hearings held during the interim between the 82nd and 83rd legislative sessions, and as noted in the last BTAC report, future policy discussions will continue to include issues such as the availability of the COGS deduction, the deduction for flow-through funds, tax rate adjustments, apportionment standards, tax planning opportunities, tax simplification and minimum taxes. All of these discussions will occur within a backdrop of an economy that has recovered from the recession, but continues to remain vulnerable to outside influences and whose strength is not as robust as past recoveries. Another factor affecting franchise tax deliberations will be the consolidated challenge to the school finance system and legislative efforts to address budget issues.

The Business Tax Advisory Committee's intent is to offer this information so that the Legislature and other interested parties, regardless of perspective, can use this report to make decisions, ask additional questions and develop positions.

Table 1
Business Tax Advisory Committee
Franchise Tax Paid by Industry and by Size of Business (\$1,000s)
Report Year 2011

Italics: Most firms in this sector use COGS.
Gross Receipts Category

*No tax due for taxpayers
with less than \$1 mil. total
revenue for 2010-2011*

Industry	Total Industry (\$1,000s)	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
<i>Agriculture</i>	\$11,989	5	5	3,815	1,431	2,406
<i>Mining (Oil & Gas)</i>	\$320,264	9	37	10,379	6,946	17,677
<i>Utilities</i>	\$165,371	0	0	537	367	1,380
<i>Construction</i>	\$143,825	7	42	34,336	18,691	34,755
<i>Manufacturing</i>	\$706,417	0	7	16,806	11,376	36,968
<i>Wholesale Trade*</i>	\$295,273	0	13	15,954	11,223	36,285
<i>Retail Trade*</i>	\$358,356	7	47	29,721	13,409	31,373
Air Transportation	\$9,706	0	0	214	285	872
Truck Transportation	\$30,681	2	17	5,209	3,493	8,827
Rail Transportation	\$2,948	0	D	182	D	117
Water and Other Transportation	\$77,512	2	19	5,077	2,728	9,083
Warehousing and Storage	\$9,443	0	3	1,054	728	1,402
Publishing, Software, Data Processing	\$92,759	3	3	3,387	2,011	5,835
Telecommunications	\$185,731	0	3	1,047	792	3,354
Financial Activities	\$193,262	3	44	13,209	8,090	21,412
Real Estate	\$254,276	62	305	71,737	22,494	48,966
Professional Services	\$371,569	49	183	53,709	26,153	55,374
Management of Companies	\$239,256	8	1	3,314	3,121	16,311
Administrative and Support Services	\$82,512	3	17	14,011	6,420	13,249
Waste Management Services	\$21,061	0	12	1,652	1,296	2,537
Educational Services	\$18,334	0	0	1,996	930	2,883
Health Services	\$172,632	66	569	41,214	12,128	23,864
Arts, Entertainment and Recreation	\$28,221	1	5	4,115	1,789	3,474
Accommodation	\$33,814	0	0	7,880	2,690	7,526
Food Services (includes restaurants)*	\$61,686	3	45	16,215	5,037	10,573
Other Services	\$66,099	12	42	22,233	6,624	11,075
Unclassified	\$41,212	40	141	13,172	5,156	9,602
Total	\$3,994,210	\$283	\$1,562	\$392,173	\$175,407	\$417,181
Number of Taxpayers	967,547	752,919	71,340	84,220	18,648	24,853

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 1 (cont.)*Gross Receipts Category*

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	980	1,592	1,756	D	0	0
<i>Mining (Oil & Gas)</i>	6,778	12,507	25,654	34,162	12,655	193,460
<i>Utilities</i>	1,702	2,978	7,348	16,729	41,415	92,916
<i>Construction</i>	10,451	11,531	15,852	18,160	D	D
<i>Manufacturing</i>	17,989	27,130	67,688	108,087	76,201	344,165
<i>Wholesale Trade*</i>	20,542	29,271	47,962	76,653	24,257	33,113
<i>Retail Trade*</i>	14,836	22,974	31,337	59,380	37,295	117,978
Air Transportation	184	D	941	280	0	6,930
Truck Transportation	2,937	3,081	5,276	1,838	0	0
Rail Transportation	0	D	2,649	0	D	D
Water and Other Transportation	4,566	2,620	8,235	15,499	29,682	D
Warehousing and Storage	1,376	1,734	1,362	1,784	D	0
Publishing, Software, Data Processing	3,554	5,864	14,107	22,678	8,535	26,782
Telecommunications	5,266	2,030	5,777	19,977	D	147,485
Financial Activities	9,851	16,942	22,894	27,507	13,230	60,079
Real Estate	22,680	24,677	30,747	32,608	D	D
Professional Services	25,109	31,782	53,366	50,890	40,320	34,635
Management of Companies	12,626	29,204	66,630	85,148	7,377	15,516
Administrative and Support Services	4,667	7,344	16,670	14,984	5,147	0
Waste Management Services	1,271	1,080	1,124	12,089	D	D
Educational Services	837	1,209	4,061	6,419	0	0
Health Services	9,997	13,120	23,184	14,692	33,797	D
Arts, Entertainment and Recreation	2,535	2,435	9,166	4,701	D	0
Accommodation	1,933	3,138	6,458	4,189	D	0
Food Services (includes restaurants)*	3,453	4,606	6,423	8,766	6,565	0
Other Services	3,959	3,653	11,845	6,655	D	0
Unclassified	2,780	3,011	2,643	4,669	0	0
Total	\$192,856	\$265,512	\$491,156	\$648,545	\$336,475	\$1,073,059
Number of Taxpayers	5,523	4,641	3,471	1,458	230	244

Table 2
Business Tax Advisory Committee
Relative Share of Tax Paid by Industry and by Size of Business
Report Year 2011

Italics: Most firms in this sector use COGS.

Gross Receipts Category

Percent of industry tax paid per gross receipts category

*No tax due for taxpayers
with less than \$1 mil. total
revenue for 2010-2011*

Industry	Percent of Tax Paid by Industry	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
<i>Agriculture</i>	0.3%	0.0%	0.0%	31.8%	11.9%	20.1%
<i>Mining (Oil & Gas)</i>	8.0%	0.0%	0.0%	3.2%	2.2%	5.5%
<i>Utilities</i>	4.1%	0.0%	0.0%	0.3%	0.2%	0.8%
<i>Construction</i>	3.6%	0.0%	0.0%	23.9%	13.0%	24.2%
<i>Manufacturing</i>	17.7%	0.0%	0.0%	2.4%	1.6%	5.2%
<i>Wholesale Trade*</i>	7.4%	0.0%	0.0%	5.4%	3.8%	12.3%
<i>Retail Trade*</i>	9.0%	0.0%	0.0%	8.3%	3.7%	8.8%
Air Transportation	0.2%	0.0%	0.0%	2.2%	2.9%	9.0%
Truck Transportation	0.8%	0.0%	0.1%	17.0%	11.4%	28.8%
Rail Transportation	0.1%	0.0%	D	6.2%	D	4.0%
Water and Other Transportation	1.9%	0.0%	0.0%	6.6%	3.5%	11.7%
Warehousing and Storage	0.2%	0.0%	0.0%	11.2%	7.7%	14.8%
Publishing, Software, Data Processing	2.3%	0.0%	0.0%	3.7%	2.2%	6.3%
Telecommunications	4.7%	0.0%	0.0%	0.6%	0.4%	1.8%
Financial Activities	4.8%	0.0%	0.0%	6.8%	4.2%	11.1%
Real Estate	6.4%	0.0%	0.1%	28.2%	8.8%	19.3%
Professional Services	9.3%	0.0%	0.0%	14.5%	7.0%	14.9%
Management of Companies	6.0%	0.0%	0.0%	1.4%	1.3%	6.8%
Administrative and Support Services	2.1%	0.0%	0.0%	17.0%	7.8%	16.1%
Waste Management Services	0.5%	0.0%	0.1%	7.8%	6.2%	12.0%
Educational Services	0.5%	0.0%	0.0%	10.9%	5.1%	15.7%
Health Services	4.3%	0.0%	0.3%	23.9%	7.0%	13.8%
Arts, Entertainment and Recreation	0.7%	0.0%	0.0%	14.6%	6.3%	12.3%
Accommodation	0.8%	0.0%	0.0%	23.3%	8.0%	22.3%
Food Services (includes restaurants)*	1.5%	0.0%	0.1%	26.3%	8.2%	17.1%
Other Services	1.7%	0.0%	0.1%	33.6%	10.0%	16.8%
Unclassified	1.0%	0.1%	0.3%	32.0%	12.5%	23.3%
Total	100.0%	0.0%	0.0%	9.8%	4.4%	10.4%

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 2 (cont.)*Gross Receipts Category**Percent of industry tax paid per gross receipts category*

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	8.2%	13.3%	14.7%	D	0.0%	0.0%
<i>Mining (Oil & Gas)</i>	2.1%	3.9%	8.0%	10.7%	4.0%	60.4%
<i>Utilities</i>	1.0%	1.8%	4.4%	10.1%	25.0%	56.2%
<i>Construction</i>	7.3%	8.0%	11.0%	12.6%	D	D
<i>Manufacturing</i>	2.5%	3.8%	9.6%	15.3%	10.8%	48.7%
<i>Wholesale Trade*</i>	7.0%	9.9%	16.2%	26.0%	8.2%	11.2%
<i>Retail Trade*</i>	4.1%	6.4%	8.7%	16.6%	10.4%	32.9%
Air Transportation	1.9%	D	9.7%	2.9%	0.0%	71.4%
Truck Transportation	9.6%	10.0%	17.2%	6.0%	0.0%	0.0%
Rail Transportation	0.0%	D	89.8%	0.0%	D	D
Water and Other Transportation	5.9%	3.4%	10.6%	20.0%	38.3%	D
Warehousing and Storage	14.6%	18.4%	14.4%	18.9%	D	0.0%
Publishing, Software, Data Processing	3.8%	6.3%	15.2%	24.4%	9.2%	28.9%
Telecommunications	2.8%	1.1%	3.1%	10.8%	D	79.4%
Financial Activities	5.1%	8.8%	11.8%	14.2%	6.8%	31.1%
Real Estate	8.9%	9.7%	12.1%	12.8%	D	D
Professional Services	6.8%	8.6%	14.4%	13.7%	10.9%	9.3%
Management of Companies	5.3%	12.2%	27.8%	35.6%	3.1%	6.5%
Administrative and Support Services	5.7%	8.9%	20.2%	18.2%	6.2%	0.0%
Waste Management Services	6.0%	5.1%	5.3%	57.4%	D	D
Educational Services	4.6%	6.6%	22.2%	35.0%	0.0%	0.0%
Health Services	5.8%	7.6%	13.4%	8.5%	19.6%	D
Arts, Entertainment and Recreation	9.0%	8.6%	32.5%	16.7%	D	0.0%
Accommodation	5.7%	9.3%	19.1%	12.4%	D	0.0%
Food Services (includes restaurants)*	5.6%	7.5%	10.4%	14.2%	10.6%	0.0%
Other Services	6.0%	5.5%	17.9%	10.1%	D	0.0%
Unclassified	6.7%	7.3%	6.4%	11.3%	0.0%	D
Total	4.8%	6.6%	12.3%	16.2%	8.4%	26.9%

Table 3
Business Tax Advisory Committee
Number of Taxpayers by Receipts Category and Industry
Report Year 2011

Italics: Most firms in this sector use COGS.
Gross Receipts Category

*No tax due for taxpayers
 with less than \$1 mil. total
 revenue for 2010-2011*

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
<i>Agriculture</i>	17,040	14,489	1,122	990	175	195
<i>Mining (Oil & Gas)</i>	18,338	13,250	1,410	2,143	544	648
<i>Utilities</i>	1,247	874	64	100	31	63
<i>Construction</i>	56,155	36,233	6,260	8,573	2,090	2,277
<i>Manufacturing</i>	27,486	14,501	2,160	4,198	1,507	2,787
<i>Wholesale Trade*</i>	38,250	19,611	2,924	6,142	2,228	4,185
<i>Retail Trade*</i>	76,262	49,857	7,874	12,399	2,317	2,472
Air Transportation	738	562	41	46	26	27
Truck Transportation	7,539	5,037	763	898	274	362
Rail Transportation	52	27	D	13	D	7
Water and Other Transportation	6,978	4,631	677	856	239	329
Warehousing and Storage	841	474	101	120	39	48
Publishing, Software, Data Processing	9,365	7,285	440	728	237	387
Telecommunications	2,075	1,242	142	277	80	178
Financial Activities	55,618	47,236	2,518	3,152	836	1,121
Real Estate	172,774	152,582	8,646	8,703	1,134	1,149
Professional Services	118,622	91,953	8,436	10,479	2,683	3,460
Management of Companies	18,705	15,115	425	668	284	702
Administrative and Support Services	32,611	25,177	2,475	2,871	689	943
Waste Management Services	1,291	736	149	222	72	68
Educational Services	5,944	4,998	343	327	79	125
Health Services	50,259	33,019	9,585	6,214	654	510
Arts, Entertainment and Recreation	12,266	10,445	697	696	142	155
Accommodation	7,100	5,072	914	835	98	118
Food Services (includes restaurants)*	31,746	22,201	4,231	4,289	447	393
Other Services	54,094	44,373	4,575	3,875	545	512
Unclassified	144,151	131,939	4,368	4,406	1,198	1,632
Total	967,547	752,919	71,340	84,220	18,648	24,853

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 3 (cont.)*Gross Receipts Category*

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	26	26	17	D	0	0
<i>Mining (Oil & Gas)</i>	111	90	73	46	9	14
<i>Utilities</i>	14	30	27	19	10	15
<i>Construction</i>	325	237	122	38	D	D
<i>Manufacturing</i>	723	690	554	251	45	70
<i>Wholesale Trade*</i>	1,140	985	690	266	50	29
<i>Retail Trade*</i>	503	380	251	140	39	30
Air Transportation	9	D	15	5	0	7
Truck Transportation	80	68	46	11	0	0
Rail Transportation	0	D	5	0	D	D
Water and Other Transportation	103	62	55	19	7	D
Warehousing and Storage	22	18	12	7	D	0
Publishing, Software, Data Processing	93	89	56	32	6	12
Telecommunications	61	37	34	17	D	7
Financial Activities	236	211	177	77	18	36
Real Estate	226	165	131	38	D	D
Professional Services	686	463	319	117	15	11
Management of Companies	339	439	464	243	13	13
Administrative and Support Services	177	141	95	36	7	0
Waste Management Services	16	11	12	5	D	D
Educational Services	24	20	20	8	0	0
Health Services	97	92	64	19	5	D
Arts, Entertainment and Recreation	28	51	40	12	D	0
Accommodation	19	18	18	8	D	0
Food Services (includes restaurants)*	61	51	49	18	6	0
Other Services	82	68	50	14	D	0
Unclassified	322	199	75	12	0	0
Total	5,523	4,641	3,471	1,458	230	244

Table 4
Business Tax Advisory Committee
Tax Paid and Gross State Product by Industry
Report Year 2011

Italics: Most firms in this sector use COGS.

Industry	Business Tax Paid (\$ 1000s)	2010 GSP (\$ Millions)	Texas Receipts (\$ Millions)	Share of Texas Receipts
<i>Agriculture</i>	11,989	9,763	9,489	0.5%
<i>Mining (Oil & Gas)</i>	320,264	97,083	313,564	15.2%
<i>Utilities</i>	165,371	25,627	60,809	3.0%
<i>Construction</i>	143,825	55,956	86,324	4.2%
<i>Manufacturing</i>	706,417	173,199	387,133	18.8%
<i>Wholesale Trade*</i>	295,273	78,620	293,751	14.3%
<i>Retail Trade*</i>	358,356	72,538	321,462	15.6%
Air Transportation	9,706	7,840	8,331	0.4%
Truck Transportation	30,681	10,912	7,576	0.4%
Rail Transportation	2,948	2,990	444	0.0%
Water and Other Transportation	77,512	15,880	29,882	1.4%
Warehousing and Storage	9,443	3,264	3,692	0.2%
Publishing, Software, Data Processing	92,759	14,663	18,312	0.9%
Telecommunications	185,731	27,718	30,765	1.5%
Financial Activities	193,262	62,886	86,802	4.2%
Real Estate	254,276	105,616	50,833	2.5%
Professional Services	371,569	84,956	102,639	5.0%
Management of Companies	239,256	11,459	87,233	4.2%
Administrative and Support Services	82,512	34,392	26,707	1.3%
Waste Management Services	21,061	3,192	4,013	0.2%
Educational Services	18,334	7,565	3,252	0.2%
Health Services	172,632	77,843	45,330	2.2%
Arts, Entertainment and Recreation	28,221	7,507	5,879	0.3%
Accommodation	33,814	6,573	5,683	0.3%
Food Services (includes restaurants)*	61,686	26,696	31,848	1.5%
Other Services	66,099	29,470	23,263	1.1%
Unclassified	41,212		16,124	0.8%
Total	3,994,210	1,054,208	2,061,140	100.0%

* Most firms in this sector pay half rate.

** Global Insight

*** Based on IRS SOI data

Source: Texas Comptroller of Public Accounts.

Table 4 (cont.)

Industry	Share of Tax Paid	Share of Gross State Product	U.S. Ten Year Forecast Job Growth Rate**	Net Profit Percent of Receipts***
<i>Agriculture</i>	0.3%	0.9%		0.49%
<i>Mining (Oil & Gas)</i>	8.0%	9.2%	-2.15%	9.62%
<i>Utilities</i>	4.1%	2.4%	0.61%	0.76%
<i>Construction</i>	3.6%	5.3%	4.41%	1.08%
<i>Manufacturing</i>	17.7%	16.4%	0.62%	3.53%
<i>Wholesale Trade*</i>	7.4%	7.5%	0.61%	1.91%
<i>Retail Trade*</i>	9.0%	6.9%	-0.07%	1.58%
Air Transportation	0.2%	0.7%	0.61%	0.46%
Truck Transportation	0.8%	1.0%	0.61%	1.50%
Rail Transportation	0.1%	0.3%	0.61%	0.46%
Water and Other Transportation	1.9%	1.5%	0.61%	2.55%
Warehousing and Storage	0.2%	0.3%	0.61%	2.72%
Publishing, Software, Data Processing	2.3%	1.4%	1.53%	5.35%
Telecommunications	4.7%	2.6%	1.53%	3.83%
Financial Activities	4.8%	6.0%	0.08%	5.55%
Real Estate	6.4%	10.0%	0.08%	5.67%
Professional Services	9.3%	8.1%	2.88%	3.33%
Management of Companies	6.0%	1.1%	0.08%	1.79%
Administrative and Support Services	2.1%	3.3%	2.88%	2.89%
Waste Management Services	0.5%	0.3%	2.88%	4.10%
Educational Services	0.5%	0.7%	1.24%	6.51%
Health Services	4.3%	7.4%	1.24%	4.70%
Arts, Entertainment and Recreation	0.7%	0.7%	-0.19%	2.06%
Accommodation	0.8%	0.6%	-0.19%	0.36%
Food Services (includes restaurants)*	1.5%	2.5%	-0.19%	2.23%
Other Services	1.7%	2.8%	-0.30%	1.96%
Unclassified	1.0%			
Total	100.0%	100.0%	1.18%	

Table 5
Business Tax Advisory Committee
Tax Paid as a % of Texas Revenue by Industry and by Size of Business
Report Year 2011

Italics: Most firms in this sector will use COGS deduction.
No tax due for taxpayers with less than \$1 mil. total revenue for 2010-2011

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
<i>Agriculture</i>	0.126%	0.018%	0.011%	0.217%	0.152%	0.088%
<i>Mining (Oil & Gas)</i>	0.102%	0.031%	0.062%	0.317%	0.318%	0.278%
<i>Utilities</i>	0.272%	0.000%	0.000%	0.309%	0.220%	0.177%
<i>Construction</i>	0.167%	0.004%	0.013%	0.208%	0.181%	0.160%
<i>Manufacturing</i>	0.182%	0.000%	0.007%	0.239%	0.230%	0.246%
<i>Wholesale Trade*</i>	0.101%	0.000%	0.009%	0.156%	0.134%	0.122%
<i>Retail Trade*</i>	0.111%	0.003%	0.009%	0.119%	0.106%	0.098%
Air Transportation	0.117%	0.000%	0.000%	0.445%	0.357%	0.458%
Truck Transportation	0.405%	0.007%	0.032%	0.359%	0.347%	0.450%
Rail Transportation	0.665%	0.000%	D	0.546%	D	0.514%
Water and Other Transportation	0.259%	0.011%	0.050%	0.373%	0.344%	0.410%
Warehousing and Storage	0.256%	0.000%	0.039%	0.431%	0.373%	0.310%
Publishing, Software, Data Processing	0.507%	0.018%	0.018%	0.370%	0.388%	0.438%
Telecommunications	0.604%	0.000%	0.026%	0.300%	0.361%	0.440%
Financial Activities	0.223%	0.005%	0.047%	0.389%	0.426%	0.459%
Real Estate	0.500%	0.019%	0.081%	0.494%	0.463%	0.502%
Professional Services	0.362%	0.019%	0.051%	0.362%	0.365%	0.375%
Management of Companies	0.274%	0.047%	0.011%	0.366%	0.334%	0.330%
Administrative and Support Services	0.309%	0.004%	0.013%	0.316%	0.281%	0.329%
Waste Management Services	0.525%	0.000%	0.115%	0.391%	0.417%	0.423%
Educational Services	0.564%	0.000%	0.000%	0.445%	0.473%	0.544%
Health Services	0.381%	0.028%	0.093%	0.354%	0.325%	0.367%
Arts, Entertainment and Recreation	0.480%	0.004%	0.015%	0.448%	0.483%	0.505%
Accommodation	0.595%	0.000%	0.000%	0.540%	0.554%	0.617%
Food Services (includes restaurants)*	0.194%	0.002%	0.016%	0.199%	0.184%	0.183%
Other Services	0.284%	0.009%	0.022%	0.333%	0.318%	0.319%
Unclassified	0.256%	0.022%	0.071%	0.296%	0.281%	0.255%
Total	0.194%	0.013%	0.043%	0.279%	0.246%	0.237%

**Most firms in this sector will pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 5 (cont.)

Italics: Most firms in this sector will use COGS deduction.
Gross Receipts Category

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	25 0mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	0.120%	0.138%	0.087%	D	-	-
<i>Mining (Oil & Gas)</i>	0.257%	0.300%	0.286%	0.157%	0.089%	0.077%
<i>Utilities</i>	0.338%	0.120%	0.169%	0.197%	0.212%	0.382%
<i>Construction</i>	0.144%	0.147%	0.138%	0.169%	D	D
<i>Manufacturing</i>	0.243%	0.238%	0.252%	0.211%	0.203%	0.153%
<i>Wholesale Trade*</i>	0.124%	0.114%	0.120%	0.123%	0.069%	0.051%
<i>Retail Trade*</i>	0.086%	0.105%	0.124%	0.149%	0.125%	0.101%
Air Transportation	0.300%	D	0.563%	0.640%	-	0.090%
Truck Transportation	0.530%	0.331%	0.449%	0.432%	-	-
Rail Transportation	-	D	0.684%	-	D	D
Water and Other Transportation	0.379%	0.395%	0.500%	0.329%	0.172%	D
Warehousing and Storage	0.597%	0.273%	0.412%	0.112%	D	-
Publishing, Software, Data Processing	0.568%	0.524%	0.528%	0.522%	0.578%	0.507%
Telecommunications	0.538%	0.458%	0.427%	0.473%	D	0.658%
Financial Activities	0.432%	0.468%	0.375%	0.418%	0.185%	0.118%
Real Estate	0.509%	0.495%	0.602%	0.505%	D	D
Professional Services	0.394%	0.423%	0.409%	0.333%	0.283%	0.395%
Management of Companies	0.305%	0.291%	0.285%	0.255%	0.224%	0.254%
Administrative and Support Services	0.322%	0.351%	0.416%	0.273%	0.190%	-
Waste Management Services	0.510%	0.547%	0.291%	0.660%	D	D
Educational Services	0.584%	0.569%	0.639%	0.603%	-	-
Health Services	0.444%	0.379%	0.411%	0.427%	0.433%	D
Arts, Entertainment and Recreation	0.434%	0.356%	0.527%	0.561%	D	-
Accommodation	0.571%	0.661%	0.621%	0.697%	D	-
Food Services (includes restaurants)*	0.178%	0.211%	0.248%	0.200%	0.180%	-
Other Services	0.366%	0.286%	0.297%	0.152%	D	-
Unclassified	0.211%	0.218%	0.273%	0.230%	-	-
Total	0.233%	0.228%	0.252%	0.219%	0.174%	0.137%

Table 6
Business Tax Advisory Committee
Franchise Tax Paid by Industry and by Size of Business (\$1,000s)
Report Year 2007

Gross Receipts Category

Industry	Total Industry (\$1,000s)	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
Agriculture	\$14,638	2,466	1,976	3,519	1,015	2,367
Mining (Oil & Gas)	\$478,068	3,173	3,396	15,897	10,134	25,384
Utilities	\$119,656	122	134	489	556	683
Construction	\$112,422	5,599	6,740	25,126	12,489	25,793
Manufacturing	\$540,389	2,389	3,100	14,926	12,840	41,364
Wholesale Trade	\$353,513	2,582	2,948	15,166	11,946	42,900
Retail Trade	\$204,563	5,650	6,606	24,246	11,450	23,162
Air Transportation	\$3,343	58	13	73	97	272
Truck Transportation	\$14,547	613	575	2,592	1,335	4,862
Rail Transportation	\$3,861	28	4	129	D	310
Water and Other Transportation	\$30,475	636	772	2,603	2,550	4,540
Warehousing and Storage	\$8,156	92	152	520	608	1,049
Publishing, Software, Data Processing	\$51,736	728	503	2,051	1,683	4,847
Telecommunications	\$45,384	199	182	652	556	2,116
Financial Activities	\$209,600	6,155	4,745	11,886	6,529	18,688
Real Estate	\$132,981	18,364	12,145	25,674	8,138	21,674
Professional Services	\$209,599	17,367	11,370	26,125	13,728	29,773
Management of Companies	\$170,685	1,294	954	4,005	3,286	20,139
Administrative and Support Services	\$49,999	4,386	2,921	7,473	3,238	7,053
Waste Management Services	\$5,659	123	159	992	434	1,184
Educational Services	\$7,532	594	383	607	704	781
Health Services	\$55,280	4,038	3,499	9,127	4,204	5,478
Arts, Entertainment and Recreation	\$9,915	901	793	1,691	824	1,209
Accommodation	\$15,453	1,090	1,669	3,980	1,333	1,084
Food Services (includes restaurants)	\$39,579	2,464	3,322	9,036	3,019	5,442
Other Services	\$44,031	5,303	4,667	9,483	3,543	6,632
Unclassified	\$36,601	6,680	3,917	9,689	3,227	5,519
Total	\$2,967,665	\$93,092	\$77,645	\$227,756	\$119,466	\$304,305
Number of Taxpayers	633,622	470,226	46,100	66,749	15,503	21,217

D – Confidentiality restrictions prohibit disclosure of data in these cells.
Source: Texas Comptroller of Public Accounts.

Table 6 (cont.)*Gross Receipts Category*

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	204	43	2,262	786	0	0
Mining (Oil & Gas)	10,090	7,779	45,820	68,682	D	287,714
Utilities	474	1,029	5,127	33,842	28,916	48,282
Construction	6,987	9,629	11,109	5,228	3,722	D
Manufacturing	21,769	30,212	60,473	78,909	55,459	218,950
Wholesale Trade	20,205	29,918	46,461	72,104	58,069	51,214
Retail Trade	7,665	16,249	25,248	27,779	12,133	44,376
Air Transportation	44	279	133	317	2,057	D
Truck Transportation	1,009	1,196	1,361	1,005	D	0
Rail Transportation	0	3,389	D	0	0	D
Water and Other Transportation	3,161	2,135	3,266	10,812	D	D
Warehousing and Storage	236	488	2,077	2,934	D	D
Publishing, Software, Data Processing	3,092	3,159	4,307	18,331	13,035	D
Telecommunications	887	1,370	4,525	11,481	D	23,417
Financial Activities	7,486	13,067	19,982	35,089	19,306	66,667
Real Estate	7,549	10,299	16,534	7,691	D	4,913
Professional Services	12,733	16,982	28,044	19,876	19,028	14,574
Management of Companies	8,902	22,493	41,381	45,999	9,591	12,641
Administrative and Support Services	4,678	3,612	8,784	5,558	2,297	D
Waste Management Services	380	65	2,322	D	0	0
Educational Services	535	1,349	2,578	D	0	0
Health Services	5,168	6,374	6,300	11,092	0	0
Arts, Entertainment and Recreation	818	1,910	1,768	D	0	0
Accommodation	299	1,584	744	3,670	D	0
Food Services (includes restaurants)	1,434	966	4,859	9,036	D	0
Other Services	3,537	2,440	4,717	3,711	0	D
Unclassified	2,779	1,935	2,108	746	D	D
Total	\$132,122	\$189,951	\$352,292	\$474,677	\$223,613	\$772,748
Number of Taxpayers	4,985	4,098	3,081	1,253	191	219

Table 7
Business Tax Advisory Committee
Relative Share of Tax Paid by Industry and by Size of Business
Report Year 2007

Gross Receipts Category

Percent of industry tax paid per gross receipts category

Industry	Percent of Tax Paid by Industry	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
Agriculture	0.5%	16.8%	13.5%	24.0%	6.9%	16.2%
Mining (Oil & Gas)	16.1%	0.7%	0.7%	3.3%	2.1%	5.3%
Utilities	4.0%	0.1%	0.1%	0.4%	0.5%	0.6%
Construction	3.8%	5.0%	6.0%	22.3%	11.1%	22.9%
Manufacturing	18.2%	0.4%	0.6%	2.8%	2.4%	7.7%
Wholesale Trade	11.9%	0.7%	0.8%	4.3%	3.4%	12.1%
Retail Trade	6.9%	2.8%	3.2%	11.9%	5.6%	11.3%
Air Transportation	0.1%	1.7%	0.4%	2.2%	2.9%	8.1%
Truck Transportation	0.5%	4.2%	4.0%	17.8%	9.2%	33.4%
Rail Transportation	0.1%	0.7%	0.1%	3.3%	D	8.0%
Water and Other Transportation	1.0%	2.1%	2.5%	8.5%	8.4%	14.9%
Warehousing and Storage	0.3%	1.1%	1.9%	6.4%	7.5%	12.9%
Publishing, Software, Data Processing	1.7%	1.4%	1.0%	4.0%	3.3%	9.4%
Telecommunications	1.5%	0.4%	0.4%	1.4%	1.2%	4.7%
Financial Activities	7.1%	2.9%	2.3%	5.7%	3.1%	8.9%
Real Estate	4.5%	13.8%	9.1%	19.3%	6.1%	16.3%
Professional Services	7.1%	8.3%	5.4%	12.5%	6.5%	14.2%
Management of Companies	5.8%	0.8%	0.6%	2.3%	1.9%	11.8%
Administrative and Support Services	1.7%	8.8%	5.8%	14.9%	6.5%	14.1%
Waste Management Services	0.2%	2.2%	2.8%	17.5%	7.7%	20.9%
Educational Services	0.3%	7.9%	5.1%	8.1%	9.3%	10.4%
Health Services	1.9%	7.3%	6.3%	16.5%	7.6%	9.9%
Arts, Entertainment and Recreation	0.3%	9.1%	8.0%	17.1%	8.3%	12.2%
Accommodation	0.5%	7.1%	10.8%	25.8%	8.6%	7.0%
Food Services (includes restaurants)	1.3%	6.2%	8.4%	22.8%	7.6%	13.8%
Other Services	1.5%	12.0%	10.6%	21.5%	8.0%	15.1%
Unclassified	1.2%	18.3%	10.7%	26.5%	8.8%	15.1%
Total	100.0%	3.1%	2.6%	7.7%	4.0%	10.3%

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 7 (cont.)*Gross Receipts Category**Percent of industry tax paid per gross receipts category*

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	1.4%	0.3%	15.5%	5.4%	0.0%	0.0%
Mining (Oil & Gas)	2.1%	1.6%	9.6%	14.4%	D	60.2%
Utilities	0.4%	0.9%	4.3%	28.3%	24.2%	40.4%
Construction	6.2%	8.6%	9.9%	4.7%	3.3%	D
Manufacturing	4.0%	5.6%	11.2%	14.6%	10.3%	40.5%
Wholesale Trade	5.7%	8.5%	13.1%	20.4%	16.4%	14.5%
Retail Trade	3.7%	7.9%	12.3%	13.6%	5.9%	21.7%
Air Transportation	1.3%	8.4%	4.0%	9.5%	61.5%	D
Truck Transportation	6.9%	8.2%	9.4%	6.9%	D	0.0%
Rail Transportation	0.0%	87.8%	D	0.0%	0.0%	D
Water and Other Transportation	10.4%	7.0%	10.7%	35.5%	D	D
Warehousing and Storage	2.9%	6.0%	25.5%	36.0%	D	D
Publishing, Software, Data Processing	6.0%	6.1%	8.3%	35.4%	25.2%	D
Telecommunications	2.0%	3.0%	10.0%	25.3%	D	51.6%
Financial Activities	3.6%	6.2%	9.5%	16.7%	9.2%	31.8%
Real Estate	5.7%	7.7%	12.4%	5.8%	D	3.7%
Professional Services	6.1%	8.1%	13.4%	9.5%	9.1%	7.0%
Management of Companies	5.2%	13.2%	24.2%	26.9%	5.6%	7.4%
Administrative and Support Services	9.4%	7.2%	17.6%	11.1%	4.6%	D
Waste Management Services	6.7%	1.1%	41.0%	D	0.0%	0.0%
Educational Services	7.1%	17.9%	34.2%	D	0.0%	0.0%
Health Services	9.3%	11.5%	11.4%	20.1%	0.0%	0.0%
Arts, Entertainment and Recreation	8.3%	19.3%	17.8%	D	0.0%	0.0%
Accommodation	1.9%	10.3%	4.8%	23.7%	D	0.0%
Food Services (includes restaurants)	3.6%	2.4%	12.3%	22.8%	D	0.0%
Other Services	8.0%	5.5%	10.7%	8.4%	0.0%	D
Unclassified	7.6%	5.3%	5.8%	2.0%	D	D
Total	4.5%	6.4%	11.9%	16.0%	7.5%	26.0%

Table 8
Business Tax Advisory Committee
Number of Taxpayers by Receipts Category and Industry
Report Year 2007

Gross Receipts Category

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
Agriculture	11,150	9,202	869	770	122	134
Mining (Oil & Gas)	11,865	8,079	922	1,694	448	458
Utilities	934	654	57	90	18	45
Construction	45,907	26,798	5,379	9,058	1,889	2,112
Manufacturing	24,193	12,002	1,982	4,172	1,458	2,472
Wholesale Trade	32,450	15,121	2,489	5,750	2,113	3,912
Retail Trade	62,612	39,049	6,679	11,243	2,143	2,267
Air Transportation	498	332	25	39	24	31
Truck Transportation	5,849	3,379	572	1,035	276	372
Rail Transportation	61	28	5	13	D	8
Water and Other Transportation	5,374	3,196	530	904	230	306
Warehousing and Storage	760	419	60	124	44	57
Publishing, Software, Data Processing	6,534	4,749	369	627	200	328
Telecommunications	2,239	1,348	141	302	102	180
Financial Activities	33,877	26,691	1,665	2,622	797	1,231
Real Estate	82,814	73,998	3,340	3,685	652	761
Professional Services	87,992	66,228	6,545	8,772	2,232	2,881
Management of Companies	12,212	9,276	278	536	228	689
Administrative and Support Services	26,767	19,568	1,992	3,007	691	973
Waste Management Services	1,064	564	118	224	60	63
Educational Services	3,947	3,218	233	273	73	96
Health Services	20,557	14,761	2,417	2,490	369	337
Arts, Entertainment and Recreation	8,205	6,776	490	599	116	131
Accommodation	4,628	3,352	561	536	52	71
Food Services (includes restaurants)	22,903	16,353	2,982	2,841	311	266
Other Services	40,183	32,040	3,701	3,346	441	455
Unclassified	78,047	73,045	1,699	1,997	414	581
Total	633,622	470,226	46,100	66,749	15,503	21,217

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 8 (cont.)*Gross Receipts Category*

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	25	12	11	5	0	0
Mining (Oil & Gas)	89	59	74	30	D	12
Utilities	7	16	15	20	7	5
Construction	316	208	112	30	5	D
Manufacturing	710	583	492	212	48	62
Wholesale Trade	1,138	964	649	253	36	25
Retail Trade	461	345	251	132	17	25
Air Transportation	8	8	15	11	5	D
Truck Transportation	100	59	42	14	D	0
Rail Transportation	0	7	D	0	0	D
Water and Other Transportation	85	61	43	19	D	D
Warehousing and Storage	14	19	15	8	D	D
Publishing, Software, Data Processing	83	82	51	33	12	D
Telecommunications	50	53	36	21	D	6
Financial Activities	282	211	216	94	22	46
Real Estate	150	125	71	27	D	5
Professional Services	528	407	297	76	15	11
Management of Companies	266	360	352	186	19	22
Administrative and Support Services	221	177	105	28	5	D
Waste Management Services	16	9	10	D	0	0
Educational Services	21	21	12	D	0	0
Health Services	84	52	36	11	0	0
Arts, Entertainment and Recreation	27	36	30	D	0	0
Accommodation	12	26	11	7	D	0
Food Services (includes restaurants)	50	41	41	18	D	0
Other Services	92	62	38	8	0	D
Unclassified	150	95	56	10	D	D
Total	4,985	4,098	3,081	1,253	191	219

Table 9
Business Tax Advisory Committee
Tax Paid and Gross State Product by Industry
Report Year 2007

Industry	Business Tax Paid (\$ 1000s)	2006 GSP (\$ Millions)	Texas Receipts (\$ Millions)	Share of Texas Receipts
Agriculture	14,638	7,376	6,795	0.4%
Mining (Oil & Gas)	478,068	104,409	302,107	16.5%
Utilities	119,656	37,457	56,606	3.1%
Construction	112,422	56,004	77,368	4.2%
Manufacturing	540,389	145,871	333,760	18.3%
Wholesale Trade	353,513	68,996	262,657	14.4%
Retail Trade	204,563	67,668	199,849	10.9%
Air Transportation	3,343	6,864	2,416	0.1%
Truck Transportation	14,547	10,013	10,697	0.6%
Rail Transportation	3,861	3,133	677	0.0%
Water and Other Transportation	30,475	14,366	16,594	0.9%
Warehousing and Storage	8,156	2,692	5,838	0.3%
Publishing, Software, Data Processing	51,736	14,336	14,717	0.8%
Telecommunications	45,384	26,302	18,955	1.0%
Financial Activities	209,600	42,268	197,440	10.8%
Real Estate	132,981	93,300	34,431	1.9%
Professional Services	209,599	68,564	94,200	5.2%
Management of Companies	170,685	14,768	97,189	5.3%
Administrative and Support Services	49,999	29,564	2,916	0.2%
Waste Management Services	5,659	2,449	2,631	0.1%
Educational Services	7,532	5,534	2,144	0.1%
Health Services	55,280	60,698	22,088	1.2%
Arts, Entertainment and Recreation	9,915	6,513	5,104	0.3%
Accommodation	15,453	6,297	4,754	0.3%
Food Services (includes restaurants)	39,579	19,675	21,310	1.2%
Other Services	44,031	22,386	21,127	1.2%
Unclassified	36,601	-	11,506	0.6%
Total	2,967,665	937,503	1,825,875	100.0%

* Global Insight

** Based on IRS SOI data

Source: Texas Comptroller of Public Accounts.

Table 9 (cont.)

Industry	Share of Tax Paid	Share of Gross State Product	U.S. Ten Year Forecast Job Growth Rate*	Net Profit Percent of Receipts**
Agriculture	0.5%	0.8%		0.49%
Mining (Oil & Gas)	16.1%	11.1%	-2.15%	9.62%
Utilities	4.0%	4.0%	0.61%	0.76%
Construction	3.8%	6.0%	4.41%	1.08%
Manufacturing	18.2%	15.6%	0.62%	3.53%
Wholesale Trade	11.9%	7.4%	0.61%	1.91%
Retail Trade	6.9%	7.2%	-0.07%	1.58%
Air Transportation	0.1%	0.7%	0.61%	0.46%
Truck Transportation	0.5%	1.1%	0.61%	1.50%
Rail Transportation	0.1%	0.3%	0.61%	0.46%
Water and Other Transportation	1.0%	1.5%	0.61%	2.55%
Warehousing and Storage	0.3%	0.3%	0.61%	2.72%
Publishing, Software, Data Processing	1.7%	1.5%	1.53%	5.35%
Telecommunications	1.5%	2.8%	1.53%	3.83%
Financial Activities	7.1%	4.5%	0.08%	5.55%
Real Estate	4.5%	10.0%	0.08%	5.67%
Professional Services	7.1%	7.3%	2.88%	3.33%
Management of Companies	5.8%	1.6%	0.08%	1.79%
Administrative and Support Services	1.7%	3.2%	2.88%	2.89%
Waste Management Services	0.2%	0.3%	2.88%	4.10%
Educational Services	0.3%	0.6%	1.24%	6.51%
Health Services	1.9%	6.5%	1.24%	4.70%
Arts, Entertainment and Recreation	0.3%	0.7%	-0.19%	2.06%
Accommodation	0.5%	0.7%	-0.19%	0.36%
Food Services (includes restaurants)	1.3%	2.1%	-0.19%	2.23%
Other Services	1.5%	2.4%	-0.30%	1.96%
Unclassified	1.2%			
Total	100.0%	100.0%	1.18%	

Table 10
Business Tax Advisory Committee
Tax Paid as a % of Texas Revenue by Industry and by Size of Business
Report Year 2007

Italics: Most firms in this sector will use COGS deduction.
Gross Receipts Category

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1.0 mil.	1.0 - 5.0 mil.	5.0 - 10.0 mil.	10.0 - 50.0 mil.
Agriculture	0.215%	0.419%	0.354%	0.253%	0.181%	0.141%
Mining (Oil & Gas)	0.158%	0.733%	0.668%	0.582%	0.564%	0.572%
Utilities	0.211%	0.434%	0.399%	0.321%	0.752%	0.159%
Construction	0.145%	0.273%	0.191%	0.141%	0.133%	0.135%
Manufacturing	0.162%	0.288%	0.253%	0.196%	0.221%	0.261%
Wholesale Trade*	0.135%	0.277%	0.198%	0.147%	0.143%	0.155%
Retail Trade*	0.102%	0.197%	0.154%	0.110%	0.100%	0.087%
Air Transportation	0.138%	0.500%	0.101%	0.132%	0.115%	0.116%
Truck Transportation	0.136%	0.205%	0.160%	0.132%	0.109%	0.201%
Rail Transportation	0.570%	1.694%	0.141%	0.443%	D	0.728%
Water and Other Transportation	0.184%	0.237%	0.234%	0.154%	0.260%	0.194%
Warehousing and Storage	0.140%	0.307%	0.370%	0.219%	0.290%	0.222%
Publishing, Software, Data Processing	0.352%	0.352%	0.251%	0.236%	0.366%	0.338%
Telecommunications	0.239%	0.341%	0.253%	0.173%	0.239%	0.273%
Financial Activities	0.106%	0.604%	0.524%	0.382%	0.374%	0.398%
Real Estate	0.386%	0.690%	0.614%	0.469%	0.379%	0.390%
Professional Services	0.223%	0.446%	0.294%	0.204%	0.208%	0.214%
Management of Companies	0.176%	0.901%	0.725%	0.487%	0.410%	0.383%
Administrative and Support Services	0.167%	0.396%	0.238%	0.155%	0.146%	0.141%
Waste Management Services	0.215%	0.293%	0.215%	0.233%	0.163%	0.275%
Educational Services	0.351%	0.348%	0.262%	0.167%	0.335%	0.262%
Health Services	0.250%	0.321%	0.225%	0.207%	0.216%	0.171%
Arts, Entertainment and Recreation	0.194%	0.274%	0.286%	0.209%	0.222%	0.248%
Accommodation	0.325%	0.388%	0.439%	0.483%	0.685%	0.218%
Food Services (includes restaurants)*	0.186%	0.159%	0.172%	0.178%	0.171%	0.157%
Other Services	0.208%	0.239%	0.196%	0.168%	0.207%	0.216%
Unclassified	0.318%	0.488%	0.443%	0.396%	0.388%	0.315%
Total	0.160%	0.378%	0.273%	0.199%	0.194%	0.201%

**Most firms in this sector will pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts.

Table 10 (cont.)

Italics: Most firms in this sector will use COGS deduction.
Gross Receipts Category

Industry	50.0 - 100.0 mil.	100.0 - 250.0 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	0.057%	0.012%	0.400%	0.106%	-	-
Mining (Oil & Gas)	0.550%	0.472%	0.593%	0.662%	D	0.106%
Utilities	0.302%	0.146%	0.155%	0.352%	0.197%	0.176%
Construction	0.140%	0.188%	0.149%	0.094%	0.154%	D
Manufacturing	0.283%	0.276%	0.255%	0.239%	0.152%	0.115%
Wholesale Trade*	0.145%	0.152%	0.151%	0.131%	0.183%	0.081%
Retail Trade*	0.062%	0.099%	0.143%	0.097%	0.116%	0.095%
Air Transportation	0.242%	0.126%	0.166%	0.117%	0.914%	D
Truck Transportation	0.087%	0.111%	0.113%	0.107%	D	-
Rail Transportation	-	0.564%	D	-	-	D
Water and Other Transportation	0.255%	0.257%	0.228%	0.145%	D	D
Warehousing and Storage	0.118%	0.166%	0.323%	0.079%	D	D
Publishing, Software, Data Processing	0.521%	0.352%	0.288%	0.492%	0.269%	D
Telecommunications	0.195%	0.156%	0.325%	0.428%	D	0.195%
Financial Activities	0.332%	0.367%	0.302%	0.366%	0.195%	0.043%
Real Estate	0.350%	0.391%	0.570%	0.228%	D	0.088%
Professional Services	0.244%	0.268%	0.259%	0.240%	0.127%	0.194%
Management of Companies	0.223%	0.228%	0.208%	0.163%	0.143%	0.059%
Administrative and Support Services	0.198%	0.108%	0.187%	0.134%	0.232%	D
Waste Management Services	0.195%	0.096%	0.205%	D	-	-
Educational Services	0.338%	0.377%	0.587%	D	-	-
Health Services	0.347%	0.443%	0.246%	0.262%	-	-
Arts, Entertainment and Recreation	0.217%	0.243%	0.106%	D	-	-
Accommodation	0.402%	0.268%	0.153%	0.257%	D	-
Food Services (includes restaurants)*	0.140%	0.108%	0.197%	0.288%	D	-
Other Services	0.285%	0.196%	0.180%	0.382%	-	D
Unclassified	0.236%	0.259%	0.143%	0.091%	D	D
Total	0.198%	0.207%	0.227%	0.210%	0.167%	0.097%

Table 11
How Franchise Tax Burden Reflects the Economy
by Industry Before and After Margin Tax Base

Italics: Most firms in this sector will use COGS deduction.

Industry	Pre-Margin % Tax Paid	Share of 2006 GSP	Margin Base % Tax Paid	Share of 2010 GSP	Pre-Margin Share Diff. (Tax-GSP)	Margin Base Share Diff. Tax - GSP
<i>Agriculture</i>	0.49%	0.79%	0.30%	0.93%	-0.30%	-0.63%
<i>Mining (Oil & Gas)</i>	16.11%	11.14%	8.02%	9.21%	4.97%	-1.19%
<i>Utilities</i>	4.03%	4.00%	4.14%	2.43%	0.03%	1.71%
<i>Construction</i>	3.79%	5.97%	3.60%	5.31%	-2.18%	-1.71%
<i>Manufacturing</i>	18.21%	15.56%	17.69%	16.43%	2.65%	1.26%
<i>Wholesale Trade*</i>	11.91%	7.36%	7.39%	7.46%	4.55%	-0.07%
<i>Retail Trade*</i>	6.89%	7.22%	8.97%	6.88%	-0.33%	2.09%
Air Transportation	0.11%	0.73%	0.24%	0.74%	-0.62%	-0.50%
Truck Transportation	0.49%	1.07%	0.77%	1.04%	-0.58%	-0.27%
Rail Transportation	0.13%	0.33%	0.07%	0.28%	-0.20%	-0.21%
Water and Other Transportation	1.03%	1.53%	1.94%	1.51%	-0.50%	0.43%
Warehousing and Storage	0.27%	0.29%	0.24%	0.31%	-0.02%	-0.07%
Publishing, Software, Data Processing	1.74%	1.53%	2.32%	1.39%	0.21%	0.93%
Telecommunications	1.53%	2.81%	4.65%	2.63%	-1.28%	2.02%
Financial Activities	7.06%	4.51%	4.84%	5.97%	2.55%	-1.13%
Real Estate	4.48%	9.95%	6.37%	10.02%	-5.47%	-3.65%
Professional Services	7.06%	7.31%	9.30%	8.06%	-0.25%	1.24%
Management of Companies	5.75%	1.58%	5.99%	1.09%	4.17%	4.90%
Administrative and Support Services	1.68%	3.15%	2.07%	3.26%	-1.47%	-1.20%
Waste Management Services	0.19%	0.26%	0.53%	0.30%	-0.07%	0.22%
Educational Services	0.25%	0.59%	0.46%	0.72%	-0.34%	-0.26%
Health Services	1.86%	6.47%	4.32%	7.38%	-4.61%	-3.06%
Arts, Entertainment and Recreation	0.33%	0.69%	0.71%	0.71%	-0.36%	-0.01%
Accommodation	0.52%	0.67%	0.85%	0.62%	-0.15%	0.22%
Food Services (includes restaurants)*	1.33%	2.10%	1.54%	2.53%	-0.77%	-0.99%
Other Services	1.48%	2.39%	1.65%	2.80%	-0.91%	-1.14%
Unclassified	1.23%		1.03%		1.23%	
Total	100.00%	100.00%	100.00%	100.00%		
Average diff. between tax and share of economy					1.52%	1.20%
Weighted Average Variation					2.82%	1.72%
Percent Improvement in how tax reflects economy**						39.09%

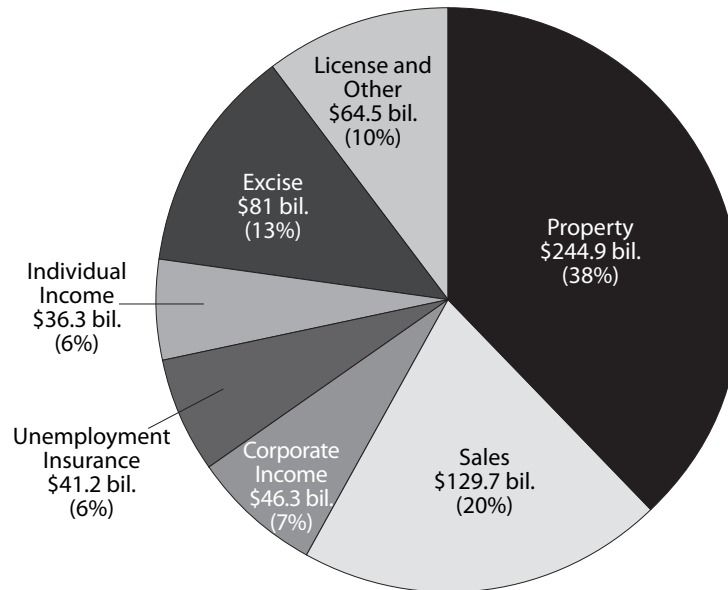
*Most firms in this sector will pay half-percent rate

** Based on improvement in weighted average variation

Source: Texas Comptroller of Public Accounts.

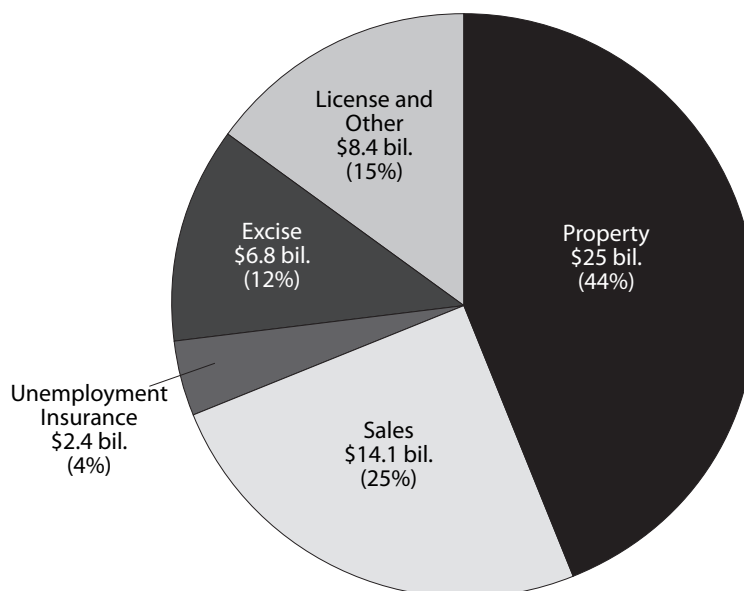
(Totals might not add to 100% due to rounding)

Chart 1
U. S. State and Local Business Taxes
Fiscal 2011 (\$Billion)



Source: Ernst & Young Total State and Local Taxes Fiscal 2011.

Chart 2
Texas State and Local Business Taxes
Fiscal 2011 (\$Billion)



Source: Ernst & Young Total State and Local Business Taxes Fiscal 2011.

Table 12
State Direct Taxes and Fees on Business 2011

State	Corporate Income Tax Rate 2012	Corporate Income Tax	Other Direct Business Taxes and Fees	Total Business Taxes and Fees	Total Taxes	2011 Direct Business Taxes and fees % of all Taxes	2007 Percentage	Difference 2011 and 2007
United States		40,196,036	23,103,326	63,299,362	757,284,745	8.4%	10.4%	-2.0%
Alabama	6.50%	301,178	238,332	539,510	8,635,527	6.2%	8.2%	-2.0%
Alaska	1%-9.4%	720,733	41,889	762,622	5,537,679	13.8%	24.5%	-10.7%
Arizona	6.97%	560,236	130,385	690,621	10,848,179	6.4%	8.8%	-2.4%
Arkansas	1%-6.5%	376,874	143,449	520,323	7,737,552	6.7%	6.5%	0.2%
California	8.84%	9,613,594	4,272,528	13,886,122	116,695,284	11.9%	13.6%	-1.7%
Colorado	4.63%	383,513	57,914	441,427	9,467,684	4.7%	5.7%	-1.0%
Connecticut	7.5% (9% w/surtax)	672,816	188,872	861,688	13,432,252	6.4%	7.2%	-0.8%
Delaware	8.70%	322,537	949,321	1,271,858	3,017,837	42.1%	40.2%	1.9%
Florida	5.50%	1,869,870	455,305	2,325,175	32,557,946	7.1%	8.1%	-1.0%
Georgia	6.00%	670,410	117,243	787,653	16,003,250	4.9%	6.5%	-1.6%
Hawaii	4.4%-6.4%	67,859	28,865	96,724	4,857,729	2.0%	2.6%	-0.6%
Idaho	7.60%	170,214	68,258	238,472	3,261,722	7.3%	7.0%	0.3%
Illinois	9.5% (2011-14)	1,851,000	706,900	2,557,900	29,433,475	8.7%	12.8%	-4.1%
Indiana	8.50%	717,207	44,812	762,019	14,909,416	5.1%	7.3%	-2.2%
Iowa	6%-12%	250,272	148,608	398,880	7,236,476	5.5%	7.0%	-1.5%
Kansas	4%-7.00%	246,518	88,400	334,918	6,828,477	4.9%	8.8%	-3.9%
Kentucky	4%-6%	516,523	213,394	729,917	10,203,241	7.2%	11.9%	-4.7%
Louisiana	4%-8%	196,732	191,309	388,041	8,865,421	4.4%	10.7%	-6.3%
Maine	3.5%-8.93%	208,997	111,362	320,359	3,675,810	8.7%	7.9%	0.8%
Maryland	8.25%	775,845	250,459	1,026,304	16,002,529	6.4%	6.6%	-0.2%
Massachusetts	8.00%	1,931,571	259,406	2,190,977	22,089,530	9.9%	11.1%	-1.2%
Michigan	NA*	719,890	190,991	910,881	23,540,253	3.9%	8.2%	-4.3%
Minnesota	9.80%	1,003,657	353,478	1,357,135	18,952,919	7.2%	8.4%	-1.2%
Mississippi	3%-5%	353,057	214,098	567,155	6,714,180	8.4%	9.0%	-0.6%
Missouri	6.25%	323,593	216,792	540,385	10,109,918	5.3%	5.9%	-0.6%
Montana	6.75%	123,985	101,774	225,759	2,303,516	9.8%	11.5%	-1.7%

Table 12 (cont.)

State	Corporate Income Tax Rate 2012	Corporate Income Tax	Other Direct Business Taxes and Fees	Total Business Taxes and Fees	Total Taxes	2011 Direct Business Taxes and fees % of all Taxes	2007 Percentage	Difference 2011 and 2007
Nebraska	5.58%-7.81%	154,945	85,099	240,044	4,153,113	5.8%	7.0%	-1.2%
Nevada	NA	NA	314,334	314,334	6,332,128	5.0%	8.0%	-3.0%
New Hampshire	8.50%	583,063	113,129	696,192	2,320,014	30.0%	31.5%	-1.5%
New Jersey	7.5%-9%	2,216,438	763,310	2,979,748	27,182,753	11.0%	13.0%	-2.0%
New Mexico	4.8%-7.6%	229,800	45,006	274,806	4,980,115	5.5%	8.7%	-3.2%
New York	7.10%	4,015,628	300,418	4,316,046	67,945,152	6.4%	8.9%	-2.5%
North Carolina	6.90%	1,092,078	712,610	1,804,688	22,405,841	8.1%	9.4%	-1.3%
North Dakota	2.1%-5.15%	160,640	61,375	222,015	3,822,347	5.8%	10.5%	-4.7%
Ohio	NA**	237,205	2,344,697	2,581,902	25,176,562	10.3%	10.2%	0.1%
Oklahoma	6.00%	353,972	130,762	484,734	7,766,332	6.2%	9.1%	-2.9%
Oregon	6.6%-7.6%	468,606	256,687	725,293	8,112,049	8.9%	8.9%	0.0%
Pennsylvania	9.99%	1,978,061	1,480,170	3,458,231	32,352,286	10.7%	12.3%	-1.6%
Rhode Island	9.00%	147,989	32,911	180,900	2,737,952	6.6%	7.8%	-1.2%
South Carolina	5.00%	216,082	242,100	458,182	7,687,496	6.0%	6.0%	-0.0%
South Dakota	NA	15,208	91,979	107,187	1,379,607	7.8%	12.3%	-4.5%
Tennessee	6.50%	1,068,573	742,959	1,811,532	10,858,935	16.7%	17.8%	-1.1%
Texas	NA	NA	4,570,912	4,570,912	43,188,251	10.6%	9.9%	0.7%
Utah	5.00%	247,661	50,921	298,582	5,475,904	5.5%	7.5%	-2.0%
Vermont	6%-8.5%	105,077	19,715	124,792	2,687,926	4.6%	4.5%	0.1%
Virginia	6.00%	798,404	236,578	1,034,982	17,409,072	5.9%	7.9%	-2.0%
Washington	NA	NA	250,681	250,681	17,411,033	1.4%	16.8%	-15.4%
West Virginia	7.75%	307,278	23,476	330,754	5,142,771	6.4%	12.7%	-6.3%
Wisconsin	7.90%	850,647	414,791	1,265,438	15,347,327	8.2%	8.6%	-0.4%
Wyoming	NA	NA	34,562	34,562	2,491,977	1.4%	1.4%	-0.0%
Totals (U.S.)		40,196,036	23,103,326	63,299,362	757,284,745	8.4%	10.4%	-2.0%

*Effective 1/1/2012 a 6% corporate income tax replaces the Michigan Business Tax

**After 2009 the Commercial Activity Tax replaces corporate tax for most but not all types of entities

Sources: U.S. Census Bureau; State Annual Reports; 2012 Multistate Corporate Tax Guide.

Table 13
Ten Most Populous States Only - State and Local Business Tax Burden

State	FY 2011			FY 2007			Change 2007-11		
	State and Local Bus. Share	Business Taxes % of GSP	Total Taxes % of GSP	State and Local Bus. Share	Business Taxes % of GSP	Total Taxes % of GSP	State and Local Bus. Share	Business Taxes % of GSP	Total Taxes % of GSP
California	47.8%	5.3%	11.1%	41.4%	4.7%	11.3%	6.4%	0.6%	-0.2%
Texas	64.8%	5.1%	7.9%	60.3%	5.0%	8.3%	4.5%	0.1%	-0.4%
New York	44.7%	6.2%	13.9%	42.4%	6.4%	15.1%	2.3%	-0.2%	-1.2%
Florida	54.7%	6.3%	11.5%	46.2%	4.9%	10.6%	8.5%	1.4%	0.9%
Illinois	46.5%	4.8%	10.3%	46.8%	5.1%	10.9%	-0.3%	-0.3%	-0.6%
Pennsylvania	45.0%	5.0%	11.1%	42.0%	5.1%	12.2%	3.0%	-0.1%	-1.1%
Ohio	42.8%	4.8%	11.2%	41.1%	4.5%	10.9%	1.7%	0.3%	0.3%
Michigan	37.6%	4.4%	11.7%	43.7%	5.1%	11.7%	-6.1%	-0.7%	0.0%
Georgia	46.3%	4.2%	9.1%	41.6%	4.2%	10.1%	4.7%	0.0%	-1.0%
North Carolina	38.1%	3.5%	9.2%	36.9%	3.9%	10.6%	1.2%	-0.4%	-1.4%
United States	47.9%	5.0%	10.4%	44.1%	5.0%	11.3%	3.8%	0.0%	-0.9%

Sources: Ernest & Young; Bureau of Labor Statistics; and U.S. Census Bureau.

Table 14
States with General Business Taxes that Apply to Most Forms of Business (\$ thousands)

State	Fiscal 2011 Tax Rate and Base	FY 2011 Revenue (unless Otherwise Noted)	Total Tax	Revenue as % of All Tax	Small Business Provisions
Delaware	.1037% to 2.0736% Gross Receipts Tax (up from .077%-1.476%)	201,100	3,017,837	6.7%	First \$80,000 (up from \$60,000 in 2007) in gross receipts per month is not taxable for most industries. First \$1 million per month for manufacturers not taxable.
District of Columbia	9.975% of taxable net income	143,404	5,325,261	2.7%	Unincorporated businesses with less than \$12,000 per year in gross income are exempt from filing. (Revenue figures include only unincorporated business franchise tax, not corporate franchise tax.)
Kentucky	Annual "limited liability entity tax" of lesser or 0.95% gross receipts or 7.5% gross profits	214,125	10,203,241	2.1%	Tax is zero for entities with less than \$3 million in gross receipts and gross profits. Reduced tax between \$3 million and \$6 million. Minimum tax of \$175 regardless of exemptions.
Michigan	4.95% on business income plus 0.80 percent on modified gross receipts with a 21.99% tax surcharge until 2016	2,100,000	23,540,253	8.9%	Taxpayers with less than \$350,000 of Michigan gross receipts are exempt with a phase-in between \$350,000 and \$700,000. In addition, a small business credit is available for taxpayers with gross receipts of \$20 million or less, adjusted business income of \$1.3 million or less and officer compensation of \$180,000 or less.
New Hampshire	0.75% Business Enterprise Tax (BET is modified additive VAT) and 8.5% Business Profits Tax (BPT includes credit for BET paid)	583,063	2,320,014	20.7%	BET: No tax if annual gross receipts less than \$150,000 and enterprise value tax base less than \$75,000. BPT: organizations with \$50,000 or less of gross business income are not required to file a return.
New Jersey	\$500-\$2,000 minimum tax levied on gross receipts as part of Corporation Business Tax levied on net income	2,216,438	27,182,753	NA	\$500 — Less than \$100,000 gross receipts; rate increases in stages to maximum of \$2,000 at greater than \$1 million in gross receipts.
Ohio	Commercial Activity Tax (CAT) .26% on receipts above \$1 million	1,400,000	25,176,562	3.7%	No tax due up to \$150,000 in annual gross receipts and flat tax of \$150 between \$150,000 and \$1 million in annual gross receipts.
Texas	0.5% and 1% on margin	3,900,000	43,188,251	9.0%	For report years 2010 and 2011, no tax due up to \$1 million in total revenue or \$1,000 tax liability.
Tennessee	.25% of the greater of net worth or real & tangible personal property and 6.5% of net income	1,852,126	11,350,148	16.3%	Tax does not apply to sole proprietorships. Revenue July 11-June 12
Washington	0.13-3.3% Business and Occupation (Gross Receipts) Tax. 0.484% most frequent rate. Rate varies by business classification, i.e., 1.8% on services.	3,000,000	16,013,481	18.7%	Small business credit of \$71 per month, reduced for firms whose tax exceeds credit
Total General Business Taxes		15,610,256	167,317,801	9.6%	Revenue as % of all tax excludes NJ

Sources: U.S. Census Bureau, State Annual Reports.

Table 15
Combined Reporting, Throwback, and Apportionment

State	Mandatory Combined Reporting	Throwback	Combined Reporting and Throwback	Combined Reporting and No Throwback	Apportionment Standard Combined Reporting	Apportionment Sales Factor 50% or more
Alabama		x				x
Alaska	x	x	x		Finnigan	
Arizona	x			x		x
Arkansas		x				x
California	x	x	x		Finnigan (Joyce before 1/1/2011)	x
Colorado	x	x	x		Joyce	x
Connecticut						x
Delaware						
Florida						x
Georgia						x
Hawaii	x	x	x		Joyce	
Idaho	x	x	x		Joyce	x
Illinois	x	x	x		Joyce	x
Indiana		x			Finnigan	x
Iowa						x
Kansas	x	x	x		Finnigan	
Kentucky						x
Louisiana						x
Maine	x			x	Finnigan	x
Maryland						x
Massachusetts	x	x	x		Finnigan	x
Michigan	x			x	Finnigan	x
Minnesota	x			x	Joyce	x
Mississippi		x				
Missouri		x				
Montana	x	x	x		Joyce	
Nebraska	x			x		x
Nevada	NA	NA	NA	NA		NA
New Hampshire	x	x	x		Joyce	x
New Jersey						x
New Mexico		x			Joyce	x
New York	x			x	Finnigan	x
North Carolina						x
North Dakota	x	x	x		Joyce	
Ohio	NA	NA	NA	NA		x
Oklahoma		x				x
Oregon	x	x	x		Joyce	x
Pennsylvania						x
Rhode Island						x
South Carolina						x
South Dakota	NA	NA	NA	NA		NA
Tennessee						x
Texas	x			x	Joyce	x
Utah	x	x	x		Finnigan	
Vermont	x	x	x		Joyce	x
Virginia						x
Washington	NA	NA	NA	NA		NA
West Virginia	x			x	Joyce	x
Wisconsin	x	x	x		Finnigan	x
Wyoming	NA	NA	NA	NA		NA
Total	23	22	15	8	13 Joyce 10 Finnigan	37

Source: 2012 Multistate Corporate Tax Guide; Various State Tax Departments.

Table 16
Business Climate Ratings
Current and Before and After Enactment of the Margin Tax

	Rank or Grade			Current
	Before	After	2009	
Top State Business Climate Rankings <i>Site Selection Magazine</i>	2	2	2	(2011) 1
State Business Climate Index <i>Tax Foundation</i>	6	8	11	(2013) 9
Small Business Survival Index <i>Small Business and Entrepreneurship Council</i>	11	9	3	(2011) 3
Metro Area and State Competitiveness Report <i>Beacon Hill Institute</i>	22	20	24	(2011) 15
Fiscal Policy Report Card on America's Governors <i>Cato Institute</i>	B	B	B	(2012) C
The State New Economy Index <i>Kauffman Foundation</i>	14	not available	not available	(2010) 18

Source: Compiled by Texas Comptroller of Public Accounts.

Table 17
Texas Franchise Tax Revenue (\$billions)

Fiscal Year	Revenue (\$Bill)	Tax as Pct of GSP	Percent of all Taxes	Tax Base
2003	\$1.72	0.22%	6.60%	
2004	\$1.84	0.22%	6.60%	Earned
2005	\$2.17	0.24%	7.30%	Surplus/
2006	\$2.61	0.27%	7.80%	Tax Cap
2007	\$3.14	0.30%	8.50%	
2008	\$4.45	0.39%	10.80%	
2009	\$4.25	0.35%	11.20%	
2010	\$3.86	0.34%	10.90%	Margin
2011	\$3.93	0.32%	10.10%	
2012	\$4.56	0.35%	10.40%	

Table 18
Texas Franchise Tax Margin Base
2008-2011 Report Year Results – Detailed Analysis

Expected	Estimated 2008	Actual 2008	Actual 2009	Actual 2010	Actual 2011
Apportionment Ratio	6.52%	6.63%	7.65%	NA*	NA*
Texas Revenue (\$bil.)	\$1,844	\$2,102	\$2,424	\$1,870	\$2,061
Overall Tax Rate	0.89%	0.90%	0.89%	0.88%	0.88%
Credits/Discounts	\$380 mil.	\$368 mil.	\$288 mil.	\$158 mil.	\$146 mil.

Unexpected	Estimated 2008	Actual 2008	Actual 2009	Actual 2010	Actual 2011
Percentage of Texas Revenue Reported Using COGS	80%	85%	86%	85%	85%
Deduction Share of COGS Deductors	68%	82%	84%	82%	83%
Deduction Share of Compensation Deductors	45%	55%	55%	55%	54%
Annual Costs of Temporary Credit	\$40 mil.	\$93 mil.	\$66 mil.	\$59 mil.	\$62 mil.

*Updated federal data needed for 2010 and 2011.

Table 19
Texas Franchise Tax Paid by Deduction Type (\$mil.)

Deduction	2008		2009		2010		2011	
	Tax Paid	Deduction as Percent of Total Revenue	Tax Paid	Deduction as Percent of Total Revenue	Tax Paid	Deduction as Percent of Total Revenue	Tax Paid	Deduction as Percent of Total Revenue
COGS	\$2,507	82%	\$2,667	84%	\$2,207	82%	\$2,359	83%
70%	757	30%	749	30%	668	30%	714	30%
Compensation	635	55%	682	55%	673	55%	715	54%
EZ	218	43%*	239	43%*	186	43%*	206	43%*
Total	\$4,117		\$4,337		\$3,734		\$3,994	

*Percent equivalent deduction at 1 percent tax rate.

Texas Comptroller of Public Accounts

111 East 17th Street
Austin, Texas 78774

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